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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, May 12, 2009
9:00 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

Contents

Federal Register

Vol. 74, No. 75

Tuesday, April 21, 2009

Reader Aids

Consult the Reader Aids section at the end of this page for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 74, No. 75
Tuesday, April 21, 2009

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 130

[Docket No. APHIS–2006–0144]

RIN 0579–AC59

Import/Export User Fees; Correction

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; correction.

SUMMARY: We are correcting an error in the rule portion of a final rule that amended the regulations concerning user fees for import- and export-related services that we provide for animals, animal products, birds, germ plasm, organisms, and vectors. The final rule was published in the **Federal Register** on March 30, 2009, and is effective on April 29, 2009.

DATES: *Effective Date:* April 29, 2009.

FOR FURTHER INFORMATION CONTACT: For information concerning program operations, contact Ms. Inez Hockaday, Director, Management Support Staff, VS, APHIS, 4700 River Road Unit 44, Riverdale, MD 20737–1231, (301) 734–7517.

For information concerning user fee rate development, contact Mrs. Kris Caraher, User Fees Section Head, Financial Management Division, MRPBS, APHIS, 4700 River Road Unit 55, Riverdale, MD 20737–1232, (301) 734–0882.

SUPPLEMENTARY INFORMATION: On March 30, 2009, we published in the **Federal Register** (74 FR 13999–14006, Docket No. APHIS–2006–0144) a final rule that amended the regulations at 9 CFR part 130, which list user fees for import- and export-related services provided by the Animal and Plant Health Inspection Service for animals, animal products, birds, germ plasm, organisms, and vectors. We amended the user fees for these import- and export-related services to reflect the increased cost of providing these services.

In the rule portion of the final rule in § 130.3, paragraph (a)(1), we provided a table setting out user fees for exclusive use of APHIS animal import centers for 5 years. In the table under the heading ''Monthly user fee'' it reads ''Beginning October 1, 2013'' instead of ''Beginning October 1, 2012''. This document corrects that error.

Correction

In FR Doc. E9–7022, published on March 30, 2009 (74 FR 13999–14006), make the following correction:

§ 130.3 [Corrected]

On page 14002, in § 130.3, paragraph (a)(1), in the table under the heading ''Monthly user fee,'' correct ''Beginning October 1, 2013'' to read ''Beginning October 1, 2012''.

Done in Washington, DC, this 15th day of April 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9–9104 Filed 4–20–09; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 145

[Docket No. APHIS–2007–0042]

RIN 0579–AC78

National Poultry Improvement Plan and Auxiliary Provisions; Correcting Amendment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; correcting amendment.

SUMMARY: In a final rule that was published in the **Federal Register** on April 1, 2009 (74 FR 14710–14719, Docket No. APHIS–2007–0042), and effective on May 1, 2009, we amended the National Poultry Improvement Plan (the Plan) and its auxiliary provisions by providing new or modified sampling and testing procedures for Plan participants and participating flocks. In that final rule, we amended a section in the Plan to include additional tests for avian influenza, but we neglected to amend the heading of that section to indicate that it now contains some tests that are not blood tests. This document corrects that error.

DATES: *Effective Date:* May 1, 2009.

FOR FURTHER INFORMATION CONTACT: Mr. Andrew R. Rhorer, Senior Coordinator, Poultry Improvement Staff, National Poultry Improvement Plan, Veterinary Services, APHIS, USDA, 1498 Klondike Road, Suite 101, Conyers, GA 30094–5104; (770) 922–3496.

SUPPLEMENTARY INFORMATION:

Background

In a final rule that was published in the **Federal Register** on April 1, 2009 (74 FR 14710–14719, Docket No. APHIS–2007–0042), and effective on May 1, 2009, we amended the National Poultry Improvement Plan (the Plan) and its auxiliary provisions by providing new or modified sampling and testing procedures for Plan participants and participating flocks. The regulations in 9 CFR parts 145, 146, and 147 contain the provisions of the Plan.

We added new tests for avian influenza to the regulations in 9 CFR part 145, which contains provisions for Plan participation by breeding flocks. The section that contains these new avian influenza tests and other tests, § 145.14, has been headed ''Blood testing.'' However, the section now contains some tests that are not blood tests, meaning the section heading is no longer accurate. Therefore, we are amending the section heading to read ''Testing.''

List of Subjects in 9 CFR Part 145

Animal diseases, Poultry and poultry products, Reporting and recordkeeping requirements.

■ Accordingly, we are amending 9 CFR part 145 as follows:

PART 145—NATIONAL POULTRY IMPROVEMENT PLAN FOR BREEDING POULTRY

■ 1. The authority citation for part 145 continues to read as follows:

Authority: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

■ 2. Section 145.14 is amended by revising the section heading to read as follows:

§ 145.14 Testing.

* * * * *

Done in Washington, DC, this 15th day of April 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9–9098 Filed 4–20–09; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF ENERGY

10 CFR Part 835

[Docket No. HS–RM–09–835]

RIN 1901–AA95

Occupational Radiation Protection; Correction

AGENCY: Department of Energy.

ACTION: Final rule; correcting amendments.

SUMMARY: The Department of Energy (DOE) corrects two errors in its Occupational Radiation Protection regulations. One error originated in a final rulemaking (FR Doc. 98–27366), which was published in the **Federal Register** of Wednesday, November 4, 1998 (63 FR 59661). The second error originated in a final rulemaking (FR Doc. E7–10477), which was published in the **Federal Register** of Friday, June 8, 2007 (72 FR 31903).

DATES: *Effective Date:* April 21, 2009.

FOR FURTHER INFORMATION CONTACT: Judith Foulke, (301) 903–5865, *e-mail: Judy.Foulke@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Background

DOE first published title 10, Code of Federal Regulations, part 835, *Occupational Radiation Protection* (part 835), as a final rule on December 14, 1993. In the November 4, 1998, amendment to part 835, DOE, in part, revised footnote 1 to appendix D. The revised footnote references an exception noted in footnote 5. The exception is actually found in footnote 6. When DOE proposed amending part 835 on August 10, 2006, DOE proposed correcting this error; however, in the final rule amending part 835 on June 8, 2007, the correction was not made. Accordingly, footnote 1 needs to be revised to reference the exception in footnote 6.

When DOE proposed amending part 835 on August 10, 2006, DOE proposed revising the definition of ''absorbed dose'' to read: ''*Absorbed dose* (D) means the average energy absorbed by matter from ionizing radiation per unit mass of irradiated material. The absorbed dose is expressed in units of rad (or gray) (1 rad = 0.01 gray).'' During the public comment period, a comment was received that the definition should be changed from ''energy absorbed by matter'' to ''energy imparted.'' As noted in the preamble to the June 8, 2007, amendment, DOE agreed with the comment and revised the definition to read: ''*Absorbed dose* (D) means the average energy imparted by ionizing radiation to the matter in a volume element. The absorbed dose is expressed in units of rad (or gray) (1 rad = 0.01 gray).'' In making this revision, the phrase ''per unit mass of irradiated material'' was inadvertently deleted from the end of the first sentence.

Need for Corrections

This correction revises the definition of ''absorbed dose'' and changes the reference to footnote 6 in footnote 1 of appendix D to part 835.

List of Subjects in 10 CFR Part 835

Federal buildings and facilities, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Nuclear safety, Occupational safety and health, Radiation protection, and Reporting and recordkeeping requirements.

■ Accordingly, 10 CFR part 835 is corrected by making the following correcting amendments:

PART 835—OCCUPATIONAL RADIATION PROTECTION

■ 1. The authority citation for part 835 continues to read as follows:

Authority: 42 U.S.C. 2201, 7191; 50 U.S.C. 2410.

■ 2. In § 835.2(b), the definition of ''absorbed dose'' is corrected to read as follows:

§ 835. 2 Definitions.

* * * * *

(b) * * *

Absorbed dose (D) means the average energy imparted by ionizing radiation to the matter in a volume element per unit mass of irradiated material. The absorbed dose is expressed in units of rad (or gray) (1 rad = 0.01 gray).

* * * * *

■ 3. In appendix D, footnote 1 of the table is corrected to read as follows:

Appendix D to Part 835—Surface Contamination Values

* * * * *

[1] The values in this appendix, with the exception noted in footnote 6 below, apply to radioactive contamination deposited on, but not incorporated into the interior or matrix of, the contaminated item. Where surface contamination by both alpha- and beta-gamma-emitting nuclides exists, the limits established for alpha- and beta-gamma-emitting nuclides apply independently.

* * * * *

Issued in Washington, DC, on April 13, 2009.

Glenn S. Podonsky,

Chief Health, Safety and Security Officer, Office of Health, Safety and Security.

[FR Doc. E9–9097 Filed 4–20–09; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0126; Directorate Identifier 2009–CE–003–AD; Amendment 39–15884; AD 2009–08–11]

RIN 2120–AA64

Airworthiness Directives; PILATUS AIRCRAFT LTD. Models PC–12 and PC–12/45 Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

This Airworthiness Directive (AD) is prompted by some occurrences where the Deice Pressure Regulator has vented too much hot air into the forward compartment damaging the oxygen cylinder ON/OFF cable, the Ram-Air Scoop cable and the Environmental Control System (ECS) firewall shut-off valve cable.

If incorrectly adjusted, or defective, the Deice Pressure Regulator can vent hot air into the forward compartment. This situation can cause overheating and failures of components located inside the forward compartment, which could result in potential loss of several functions essential for safe flight.

We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective May 26, 2009.

On May 26, 2009, the Director of the Federal Register approved the

incorporation by reference of certain publications listed in this AD.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; *telephone:* (816) 329–4059; *fax:* (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on February 13, 2009 (74 FR 7198). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> This Airworthiness Directive (AD) is prompted by some occurrences where the Deice Pressure Regulator has vented too much hot air into the forward compartment damaging the oxygen cylinder ON/OFF cable, the Ram-Air Scoop cable and the Environmental Control System (ECS) firewall shut-off valve cable.
>
> If incorrectly adjusted, or defective, the Deice Pressure Regulator can vent hot air into the forward compartment. This situation can cause overheating and failures of components located inside the forward compartment, which could result in potential loss of several functions essential for safe flight.
>
> For the reason described above, this AD mandates the installation of a flange and scoop in the aircraft skin to vent the hot air from the Deice Pressure Regulator overboard.

You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the AD.

Costs of Compliance

We estimate that this AD will affect 131 products of U.S. registry. We also estimate that it will take about 2 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Required parts will cost about $1,000 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here.

Based on these figures, we estimate the cost of this AD on U.S. operators to be $151,960, or $1,160 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866;

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD Docket.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2009–08–11 Pilatus Aircraft Ltd.: Amendment 39–15884; Docket No. FAA–2009–0126; Directorate Identifier 2009–CE–003–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective May 26, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Models PC–12 and PC–12/45 airplanes, manufacturer's serial numbers (MSN) 101 through MSN 320, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 30: Ice and Rain Protection.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

This Airworthiness Directive (AD) is prompted by some occurrences where the Deice Pressure Regulator has vented too much hot air into the forward compartment damaging the oxygen cylinder ON/OFF cable, the Ram-Air Scoop cable and the Environmental Control System (ECS) firewall shut-off valve cable.

If incorrectly adjusted, or defective, the Deice Pressure Regulator can vent hot air into the forward compartment. This situation can cause overheating and failures of components located inside the forward compartment, which could result in potential loss of several functions essential for safe flight.

For the reason described above, this AD mandates the installation of a flange and scoop in the aircraft skin to vent the hot air from the Deice Pressure Regulator overboard.

Actions and Compliance

(f) Unless already done, within the next 3 months after May 26, 2009 (the effective date of this AD), install an overboard vent for the airfoil deice system pressure regulator (Modification Kit Number 500.50.12.332) following the Accomplishment Instructions in PILATUS AIRCRAFT LTD. PC12 Service Bulletin No. 30–011, dated July 9, 2008.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64016; telephone: (816) 329–4059; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2009–0007, dated January 13, 2009; and PILATUS AIRCRAFT LTD. PC12 Service Bulletin No. 30–011, dated July 9, 2008, for related information.

Material Incorporated by Reference

(i) You must use PILATUS AIRCRAFT LTD. PC12 Service Bulletin No. 30–011, dated July 9, 2008, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact PILATUS AIRCRAFT LTD., Customer Service Manager, CH–6371 STANS, Switzerland; *telephone:* +41 (0)41 619 62 08; *fax:* +41 (0)41 619 73 11; *Internet: http://www.pilatus-aircraft.com/,* or *e-mail: SupportPC12@pilatus-aircraft.com.*

(3) You may review copies of the service information incorporated by reference for this AD at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the Central Region, call (816) 329–3768.

(4) You may also review copies of the service information incorporated by reference for this AD at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Kansas City, Missouri, on April 9, 2009.

John Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–8687 Filed 4–20–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0360; Directorate Identifier 2009–NM–039–AD; Amendment 39–15887; AD 2009–09–01]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A318, A319, A320 and A321 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

During a routine inspection on an Airbus A321 aircraft, the operator discovered that a bearing of the flap track No. 1 pendulum assembly had migrated out of position. * * * This condition, if not corrected, could lead to separation of the bearing/flap track assembly, resulting in the detachment of the affected flap surface from the wing and consequent loss of control of the aircraft.

* * * * *

This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective May 6, 2009.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of May 6, 2009.

We must receive comments on this AD by May 21, 2009.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA,

1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA) which is the Technical Agent of the Member States of the European Community, has issued EASA Airworthiness Directive 2009–0025, dated February 10, 2009 [Corrected February 11, 2009] (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

During a routine inspection on an Airbus A321 aircraft, the operator discovered that a bearing of the flap track No. 1 pendulum assembly had migrated out of position. The investigation has confirmed that the pendulum bearing migration was probably due to the methods used during in-service replacement of the bearing during maintenance, whereby the necessary special tools, fixtures and equipment were not used. This condition, if not corrected, could lead to separation of the bearing/flap track assembly, resulting in the detachment of the affected flap surface from the wing and consequent loss of control of the aircraft.

For the reasons described above, this AD requires a one-time inspection of the affected flap track No.1 pendulum assembly for bearing migration and, in case any bearing is found to have migrated, the replacement of the affected flap track pendulum assembly.

Note: Based on this in-service experience, showing the potential safety effect of not following the TC Holder's accomplishment instructions, Airbus has removed the instructions to replace the bearing in the pendulum assembly from the A320 Family aircraft maintenance documentation. Component Maintenance Manual (CMM) references are 27–54–43 for the A318, A319 and A320, and 27–54–42 for the A321.

If no migration is found during the one-time inspection for migration, the required actions include an inspection for correct swaging of the spherical bearing in the No.1 flap track pendulum assembly. If the bearing is found incorrectly swaged, the corrective actions include contacting Airbus for repair instructions and doing the repair. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Airbus has issued Service Bulletin A320–57–1144, including Appendix 01, Revision 01, dated June 18, 2007; and Service Bulletin A320–57A1146, including Appendix 01, dated September 21, 2007. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between the AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the AD.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because of the possible separation of the bearing and flap track assembly, resulting in the detachment of the affected flap surface from the wing and consequent loss of control of the airplane. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2009–0360; Directorate Identifier 2009–NM–039–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2009–09–01 Airbus: Amendment 39–15887. Docket No. FAA–2009–0360; Directorate Identifier 2009–NM–039–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective May 6, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A318–111, A318–112, A318–121, A318–122, A319–111, A319–112, A319–113, A319–114, A319–115, A319–131, A319–132, A319–133, A320–111, A320–211, A320–212, A320–214, A320–231, A320–232, A320–233, A321–111, A321–112, A321–131, A321–211, A321–212, A321–213, A321–231, and A321–232 airplanes; certificated in any category; except airplanes identified in paragraph (c)(1), (c)(2), (c)(3), or (c)(4) of this AD.

(1) Any airplane for which the date of issuance of the original French or German airworthiness certificate or the date of issuance of the original French or German export certificate of airworthiness, is after February 24, 2009 (the effective date of European Aviation Safety Agency (EASA) Airworthiness Directive 2009–0025 [Corrected: February 11, 2009]).

(2) Any airplane for which it can be positively determined from records review that the bearing of any pendulum assembly has not been replaced or re-swaged since the date of issuance of the original French or German airworthiness certificate or the date of issuance of the original French or German export certificate of airworthiness.

(3) Any airplane inspected prior to the effective date of this AD in accordance with Airbus Service Bulletin A320–57A1146, dated September 21, 2007 (for Model A318, A319 and A320 series airplanes); or in accordance with Airbus Service Bulletin A320–57A1144, dated February 6, 2007, or A320–57–1144, Revision 01, dated June 18, 2007 (for Model A321 series airplanes), and on which it can be positively determined from a records review that thereafter no replacement with a pendulum assembly whose bearing has been replaced or re-swaged since new manufacture was performed.

(4) Any airplane inspected prior to the effective date of this AD in accordance with Airbus Service Bulletin A320–57A1146, dated September 21, 2007 (for Model A318, A319 and A320 series airplanes); or in accordance with Airbus Service Bulletin A320–57A1144, dated February 6, 2007, or A320–57–1144, Revision 01, dated June 18, 2007 (for Model A321 series airplanes), and on which it can be positively determined from a records review that thereafter no pendulum bearing replacement or re-swaging was performed.

Subject

(d) Air Transport Association (ATA) of America Code 57: Wings.

Reason

(e) The mandatory continued airworthiness information (MCAI) states:

During a routine inspection on an Airbus A321 aircraft, the operator discovered that a bearing of the flap track No.1 pendulum assembly had migrated out of position. The investigation has confirmed that the pendulum bearing migration was probably due to the methods used during in-service replacement of the bearing during maintenance, whereby the necessary special tools, fixtures and equipment were not used. This condition, if not corrected, could lead to separation of the bearing/flap track assembly, resulting in the detachment of the affected flap surface from the wing and consequent loss of control of the aircraft.

For the reasons described above, this AD requires a one-time inspection of the affected flap track No.1 pendulum assembly for bearing migration and, in case any bearing is found to have migrated, the replacement of the affected flap track pendulum assembly.

Note: Based on this in-service experience, showing the potential safety effect of not following the TC Holder's accomplishment instructions, Airbus has removed the instructions to replace the bearing in the pendulum assembly from the A320 Family aircraft maintenance documentation. Component Maintenance Manual (CMM) references are 27–54–43 for the A318, A319 and A320, and 27–54–42 for the A321.

If no migration is found during the one-time inspection for migration, the required actions include an inspection for correct swaging of the spherical bearing in the No.1 flap track pendulum assembly. If the bearing is found incorrectly swaged, the corrective actions include contacting Airbus for repair instructions and doing the repair. You may obtain further information by examining the MCAI in the AD docket.

Actions and Compliance

(f) Unless already done, do the following actions:

(1) Within 600 flight hours after the effective date of this AD, inspect for migration, and correct swaging as applicable, of the pendulum assembly of flap track number 1 in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–57A1146, dated September 21, 2007 (for Model A318, A319 and A320 series airplanes); or in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–57–1144, Revision 01, dated June 18, 2007 (for Model A321 series airplanes).

(i) If the bearing of the pendulum assembly of flap track number 1 is found to have migrated, before further flight, replace the affected pendulum assembly with a new pendulum assembly, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–57A1146, dated September 21, 2007 (for Model A318, A319 and A320 series airplanes); or in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–57–1144, Revision 01, dated June 18, 2007 (for Model A321 series airplanes).

(ii) If the bearing of the pendulum assembly of flap track number 1 is incorrectly swaged, before further flight, contact Airbus for repair instructions and accomplish the repair.

(2) After the effective date of this AD, no person shall replace the bearing in the pendulum assembly of the flap track or install a pendulum assembly, unless:

(i) The pendulum assembly is of new manufacture, or

(ii) It can be positively determined from a records review that the bearing of the pendulum assembly has not been replaced or re-swaged since new.

(3) Accomplishment of the actions required by paragraph (f)(1), (f)(2), and (f)(3) of this AD, before the effective date of this AD in accordance with Airbus Service Bulletin A320–57A1144, dated February 6, 2007, is acceptable for compliance with the corresponding requirements of paragraph (f) of this AD for Airbus Model A321 series airplanes.

FAA AD Differences

Note 1: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2141; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act,

the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2009–0025, dated February 10, 2009; Airbus Service Bulletin A320–57–1144, Revision 01, dated June 18, 2007; and Airbus Service Bulletin A320–57A1146, dated September 21, 2007, for related information.

Material Incorporated by Reference

(i) You must use Airbus Service Bulletin A320–57A1146, including Appendix 01, dated September 21, 2007; or Airbus Service Bulletin A320–57–1144, including Appendix 01, Revision 01, dated June 18, 2007; as applicable; to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Airbus, Airworthiness Office—EAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; e-mail: *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.*

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on April 8, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–8982 Filed 4–20–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0361; Directorate Identifier 2009–NM–046–AD; Amendment 39–15888; AD 2009–09–02]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

Several reports have been received on failures of the aft hinge of the main landing gear (MLG) forward stabilizer brace. Laboratory examinations have found that the fatigue cracks were initiated from the dowel pin hole at the aft hinge lug of the MLG forward stabilizer brace where the stop bracket is attached. Failure of the stabilizer brace could result in the collapse of the main landing gear.

This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective May 6, 2009.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of May 6, 2009.

We must receive comments on this AD by May 21, 2009.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Jon Hjelm, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7323; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Emergency Airworthiness Directive CF–2009–11, dated March 13, 2009 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

Several reports have been received on failures of the aft hinge of the main landing gear (MLG) forward stabilizer brace. Laboratory examinations have found that the fatigue cracks were initiated from the dowel pin hole at the aft hinge lug of the MLG forward stabilizer brace where the stop bracket is attached. Failure of the stabilizer brace could result in the collapse of the main landing gear.

Required actions include inspections for damage (including excessive wear, corrosion, foreign object damage, and cracking) of the MLG forward stabilizer brace assemblies and applicable corrective actions. The inspections include the following inspections:

- A visual inspection for evidence of excessive wear on the outside diameter of apex pins part number 46418–1.
- A visual inspection for damage (including cracking, corrosion, and foreign object damage) of the face of the forward stabilizer brace lugs, stop bracket retention hole apex bushings, and stop bracket.
- An inspection to detect 0.050-inch-long exposed surface cracks around the stop bracket mounting face and retention pin hole areas, using either of the following nondestructive inspection methods: (1) An eddy current inspection, or (2) a visual inspection using liquid penetrant under 10X magnification.

The applicable corrective actions include the following:

- Contacting Goodrich for repair instructions and doing the repair.
- Replacing the stop bracket.
- Reworking the forward stabilizer brace assembly.
- Replacing the forward stabilizer brace assembly.

The required actions also include, for certain airplanes, repetitive detailed visual inspection for cracking of both MLG forward stabilizer braces, including liquid penetrant inspections for cracking if necessary, and repair of the cracking if necessary. The required actions also include, for certain airplanes, a detailed visual inspection

for cracking of the stabilizer brace apex lugs. The required actions also include, for certain airplanes, repair in accordance with a method approved by the FAA or TCCA.

You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Bombardier has issued Repair Drawing 8/4–32–099, Issue 1, dated March 10, 2009; and Q400 All Operator Message 338, dated February 23, 2009. Goodrich has issued Service Concession Request 026–09, Revision B, dated March 10, 2009. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between the AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a Note within the AD.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because some affected airplanes are approaching the threshold at which failure of the aft hinge MLG brace could occur and result in the collapse of the MLG. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2009–0361; Directorate Identifier 2009–NM–046–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2009–09–02 Bombardier, Inc. (Formerly de Havilland, Inc.): Amendment 39–15888. Docket No. FAA–2009–0361; Directorate Identifier 2009–NM–046–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective May 6, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier Model DHC–8–400, DHC–8–401, and DHC–8–402 series airplanes; certificated in any category, serial numbers 4001, 4003, and subsequent.

Subject

(d) Air Transport Association (ATA) of America Code 32: Landing gear.

Reason

(e) The mandatory continued airworthiness information (MCAI) states:

Several reports have been received on failures of the aft hinge of the main landing gear (MLG) forward stabilizer brace. Laboratory examinations have found that the fatigue cracks were initiated from the dowel pin hole at the aft hinge lug of the MLG forward stabilizer brace where the stop bracket is attached. Failure of the stabilizer brace could result in the collapse of the main landing gear.

Actions and Compliance

(f) Unless already done, do the following actions:

(1) At the applicable time specified in paragraph (f)(1)(i), (f)(1)(ii), (f)(1)(iii), or (f)(1)(iv) of this AD: Perform non-destructive inspections for damage of the MLG forward stabilizer brace assemblies part number (P/N) 46401–7, in accordance with Bombardier Repair Drawing 8/4–32–099, Issue 1, dated March 10, 2009; and Goodrich Service Concession Request 026–09, Revision B, dated March 10, 2009. Repeat the inspection thereafter at intervals not to exceed 2,000 flight cycles.

(i) For airplanes with MLG forward stabilizer braces that have accumulated 12,000 or more total flight cycles as of the effective date of this AD: Inspect within 50 flight cycles after the effective date of this AD.

(ii) For airplanes with MLG forward stabilizer braces that have accumulated 9,000 or more total flight cycles but fewer than 12,000 total flight cycles as of the effective date of this AD: Inspect before the accumulation of 12,050 total flight cycles, or within 500 flight cycles after the effective date of this AD, whichever occurs earlier.

(iii) For airplanes with MLG forward stabilizer braces that have accumulated 4,500 or more total flight cycles but fewer than 9,000 total flight cycles as of the effective date of this AD: Inspect before the accumulation of 9,500 total flight cycles, or within 1,500 flight cycles after the effective date of this AD, whichever occurs earlier.

(iv) For airplanes with MLG forward stabilizer braces that have accumulated fewer than 4,500 total flight cycles as of the effective date of this AD: Inspect before the accumulation of 6,000 total flight cycles.

(2) If any damage is found during any inspection required by paragraph (f)(1) of this AD, before further flight, do all applicable corrective actions in accordance with Goodrich Service Concession Request 026–09, Revision B, dated March 10, 2009, except as provided by paragraphs (f)(3), (f)(4), (f)(5), and (f)(6) of this AD.

(3) For airplanes on which step 24. of Goodrich Service Concession Request 026–09, Revision B, dated March 10, 2009, has been done: Within 1,200 flight cycles after the effective date of this AD, rework the MLG forward stabilizer brace, and except for airplanes on which the rework has been done, within 600 flight cycles after the effective date of this AD do a detailed visual inspection for damage of the stabilizer brace apex lugs, in accordance with Goodrich Service Concession Request 026–09, Revision B, dated March 10, 2009. If any damage is found, repair before further flight in accordance with Section C of Goodrich Service Concession Request 026–09, Revision B, dated March 10, 2009.

(4) At the applicable time specified in paragraph (f)(4)(i), (f)(4)(ii), or (f)(4)(iii) of this AD, replace the forward stabilizer brace assembly, in accordance with Goodrich Service Concession Request 026–09, Revision B, dated March 10, 2009.

(i) For airplanes on which cracking is found during any inspection required by this AD, and the cracking exceeds the limit specified in Section C of Goodrich Service Concession Request 026–09, Revision B, dated March 10, 2009: Replace the assembly before further flight.

(ii) For airplanes on which any cracking is found after the rework specified in Section C of Goodrich Service Concession Request 026–09, Revision B, dated March 10, 2009: Replace the assembly before further flight.

(iii) For airplanes on which no cracking is found after the rework specified in Section C of Goodrich Service Concession Request 026–09, Revision B, dated March 10, 2009: Replace the assembly within 2,700 flight cycles after doing the rework.

(5) If foreign object damage is found during any inspection required by this AD, or if damage is found to a forward stabilizer brace lug or stop bracket retention hole apex bushing, before further flight, repair using a method approved by either the Manager, New York Aircraft Certification Office, ANE–170, FAA; or Transport Canada Civil Aviation (TCCA) (or its delegated agent).

(6) If any crack is found during the visual inspection under 10X magnification, repair before further flight, in accordance with Goodrich Service Concession Request 026–09, Revision B, dated March 10, 2009.

(7) Before the accumulation of 6,000 total flight cycles on the MLG forward stabilizer braces, or within 600 flight hours after the effective date of this AD, whichever occurs later: Do a detailed visual inspection for cracking of both MLG forward stabilizer braces and do all applicable liquid penetrant inspections for cracking, in accordance with Bombardier Q400 All Operator Message 338, dated February 23, 2009. Repeat the inspection thereafter at intervals not to exceed 600 flight hours. If any cracking is found during any inspection required by this paragraph, repair before further flight in accordance with Bombardier Repair Drawing 8/4–32–099, Issue 1, dated March 10, 2009; and Goodrich Service Concession Request 026–09, Revision B, dated March 10, 2009.

(8) Submit a report of all findings of the inspections required by paragraph (f)(1) of this AD to the Bombardier Technical Help Desk, *e-mail: thd.qseries@aero.bombardier.com;* fax: (416) 375–4539; telephone: (416) 375–4000; at the applicable time specified in paragraph (f)(8)(i) or (f)(8)(ii) of this AD. The report must include the information specified in sheets 3 and 4 of Bombardier Repair Drawing 8/4–32–099, Issue 1, dated March 10, 2009.

(i) If the inspection was done on or after the effective date of this AD: Submit the report within 10 days after the inspection.

(ii) If the inspection was accomplished prior to the effective date of this AD: Submit the report within 10 days after the effective date of this AD.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Jon Hjelm, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7323; fax (516) 794–5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to ensure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

(4) *Special Flight Permits:* Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the airplane can be modified (if the operator elects to do so), provided that, within 10 flight cycles after detection of the discrepancy that requires repair, operators perform a detailed visual inspection for cracking of both MLG forward stabilizer braces and do all applicable non-destructive inspections (eddy current or visual liquid penetrant inspections) for cracking, in accordance with Bombardier Q400 All Operator Message 338, dated February 23, 2009; and repair any cracking before further flight in accordance with Goodrich Service Concession Request 026–09, Revision B, dated March 10, 2009.

Related Information

(h) Refer to MCAI Canadian Emergency Airworthiness Directive CF–2009–11, dated March 13, 2009; Bombardier Q400 All Operator Message 338, dated February 23, 2009; Bombardier Repair Drawing 8/4–32–099, Issue 1, dated March 10, 2009; and Goodrich Service Concession Request 026–09, Revision B, dated March 10, 2009; for related information.

Material Incorporated by Reference

(i) You must use Bombardier Q400 All Operator Message 338, dated February 23, 2009; Bombardier Repair Drawing 8/4–32–099, Issue 1, dated March 10, 2009; and Goodrich Service Concession Request 026–09, Revision B, dated March 10, 2009; as applicable; to do the actions required by this AD, unless the AD specifies otherwise. (The issue date of Bombardier Q400 All Operator

Message 338, dated February 23, 2009; and Bombardier Repair Drawing 8/4–32–099, Issue 1, dated March 10, 2009; is specified only on the first page of the documents.) Goodrich Service Concession Request 026–09, Revision B, dated March 10, 2009, contains the following effective pages:

Page No.	Revision level shown on page	Date shown on page
1–8	B	March 5, 2009.
9–22	B	March 10, 2009.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For Bombardier service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; e-mail *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.* For Goodrich service information identified in this AD, contact Goodrich Corporation, Landing Gear, 1400 South Service Road, West Oakville L6L 5Y7, Ontario, Canada; telephone 905–825–1568; e-mail *jean.breed@goodrich.com;* Internet *http://www.goodrich.com/TechPubs.*

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on April 8, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–8995 Filed 4–20–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 30662; Amdt. No. 480]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

DATES: *Effective Date:* 0901 UTC, May 7, 2009.

FOR FURTHER INFORMATION CONTACT: Harry Hodges, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (*Mail Address:* P.O. Box 25082 Oklahoma City, OK 73125) *telephone:* (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC on April 14, 2009.

John M. Allen,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, May 07, 2009

■ 1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

■ 2. Part 95 is amended as follows:

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINTS

[Amendment 480 effective date May 7, 2009]

From	To	MEA
Color Routes		
§ 95.60 Blue Federal Airway B7 is added to Read		
Cape Newenham, AK NDB/DME	Oscarville, AK NDB	4600
§ 95.1001 Direct Routes—U.S. Atlantic Routes—A555 is Amended to Read in Part		
GRADI, IB FIX *1300–MOCA	Cocbu, IB FIX	*2000
§ 95.6001 Victor Routes—U.S.		
§ 95.6020 VOR Federal Airway V20 is Amended to Read in Part		
Palacios, TX VORTAC *3000–MRA	*Magus, TX FIX	1800
*Magus, TX FIX *3000–MRA	Keeds, TX FIX	1700
§ 95.6036 VOR Federal Airway V36 is Amended to Read in Part		
U.S. Canadian Border *2700–MOCA *3000–GNSS MEA #R–314 Unusable Below 6000	#Buffalo, NY VOR/DME	*6000
§ 95.6084 VOR Federal Airway V84 is Amended to Read in Part		
U.S. Canadian Border *2400–MOCA *3000–GNSS MEA #R–282 Unusable Below 6000	#Buffalo, NY VOR/DME	*6000
§ 95.6109 VOR Federal Airway V109 is Amended to Read in Part		
Volta, CA FIX *3000–GNSS MEA #R–147 Unusable	#Manteca, CA VORTAC	*3000
§ 95.6113 VOR Federal Airway V113 is Amended to Read in Part		
Volta, CA FIX *3000–GNSS MEA #R–147 Unusable	#Manteca, CA VORTAC	#*3000
§ 95.6132 VOR Federal Airway V132 is Amended to Read in Part		
*Ranso, KS FIX *10000–MRA **4400–MOCA	Disks, KS FIX	**10000
§ 95.6164 VOR Federal Airway V164 is Amended to Read in Part		
U.S. Canadian Border *6000–MCA Bulge, NY FIX, S BND	*Bulge, NY FIX	3100
Bulge, NY FIX *2100–MOCA *3000–GNSS MEA	Buffalo, NY VOR/DME	*6000
§ 95.6257 VOR Federal Airway V257 is Amended to Read in Part		
*Banyo, AZ FIX *6000–MRA **8100–MOCA	Coyot, AZ FIX	**9000
Coyot, AZ FIX *9000–GNSS MEA	Maier, AZ FIX	*10000
Maier, AZ FIX	Drake, AZ VORTAC	10000
Drake, AZ VORTAC	*Bisop, AZ FIX	**10000

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINTS—Continued

[Amendment 480 effective date May 7, 2009]

From	To	MEA
*11000–MRA **8400–MOCA **9000–GNSS MEA		
§ 95.6298 VOR Federal Airway V298 is Amended to Read in Part		
Dubois, ID VORTAC	*Sabat, ID FIX. W BND E BND	 **9000 **13000
*10000–MRA *11100–MCA Sabat, ID FIX, E BND **8100–MOCA		
*Sabat, ID FIX	Lamon, ID FIX. W BND E BND	 **10000 **13000
*10000–MRA **8100–MOCA		
§ 95.6542 VOR Federal Airway V542 is Amended to Read in Part		
Cambridge, NY VOR/DME *5000–MCA Jamma, VT FIX, W BND	*Jamma, VT FIX	6200
§ 95.6585 VOR Federal Airway V585 is Amended to Read in Part		
Volta, CA FIX *3000–GNSS MEA #R–147 Unusable	#Manteca, CA VORTAC	#*3000

From	To	MEA	MAA
§ 95.7001 Jet Routes **§ 95.7041 Jet Route J41 is Amended to Read in Part**			
St Petersburg, FL VORTAC *18000–GNSS MEA #MEA is established with a gap in navigation signal coverage.	Seminole, FL VORTAC	#*25000	*45000
§ 95.7043 Jet Route J43 is Amended to Read in Part			
St Petersburg, FL VORTAC *18000–GNSS MEA #MEA is established with a gap in navigation signal coverage.	Seminole, FL VORTAC	#*25000	45000

From	To	Changeover points	
		Distance	From
§ 95.8003 VOR Federal Airway Changeover Points is Amended to Add Changeover Point			
Brooke, VA VORTAC	Cape Charles, VA VORTAC	22	Brooke

[FR Doc. E9–8872 Filed 4–20–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM08–1–003, et al.; Order No. 712–B]

Promotion of a More Efficient Capacity Release Market

Issued April 16, 2009.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; order on rehearing and clarification and terminating dockets.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing an order addressing the requests for rehearing and clarification of Order No. 712–A [73 FR 72692, December 1, 2008]. Order No. 712 [73 FR 37058, June 30, 2008], as modified by Order No. 712–A, revised the Commission's regulations governing interstate natural gas pipelines to reflect changes in the market for short-term transportation services on pipelines and to improve the efficiency of the Commission's capacity release program. The orders lifted the maximum rate ceiling on secondary capacity releases of one year or less provided that such releases take effect within a year of the date that a pipeline is notified of the release. The revised regulations facilitated asset management arrangements (AMA) by relaxing the Commission's prohibition on tying and on its bidding requirements for certain capacity releases. The Commission further clarified in Order No. 712 that its prohibition on tying does not apply to conditions associated with gas inventory held in storage for releases of firm storage capacity. Finally, the Commission waived its prohibition on tying and bidding requirements for capacity releases made as part of state-approved retail access programs.

This Order denies rehearing and grants clarification in part and denies clarification in part of Order No. 712–A. This order also terminates Docket Nos. RM06–21–000 and RM07–4–000.

DATES: *Effective Date:* This order denying rehearing of the final rule will become effective May 21, 2009.

FOR FURTHER INFORMATION CONTACT:

William Murrell, Office of Energy Market Regulation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, *William.Murrell@ferc.gov*, (202) 502–8703.

Robert McLean, Office of General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, *Robert.McLean@ferc.gov*, (202) 502–8156.

David Maranville, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, *David.Maranville@ferc.gov*, (202) 502–6351.

SUPPLEMENTARY INFORMATION:

Order on Rehearing and Clarification and Terminating Dockets

1. On November 21, 2008, the Commission issued Order No. 712–A in which it denied rehearing and granted clarification in part of Order No. 712.[1] Order No. 712, as modified by Order No. 712–A, revised the Commission's regulations governing interstate natural gas pipelines to reflect changes in the market for short-term transportation services on pipelines and to improve the efficiency of the Commission's capacity release program. The orders lifted the maximum rate ceiling on secondary capacity releases of one year or less provided that such releases take effect within a year of the date that the pipeline is notified of the release. The revised regulations facilitated asset management arrangements (AMA) by relaxing the Commission's prohibition on tying and on its bidding requirements for certain capacity releases. The Commission further clarified in Order No. 712 that its prohibition on tying does not apply to conditions associated with gas inventory held in storage for releases of firm storage capacity. Finally, the Commission waived its prohibition on tying and bidding requirements for capacity releases made as part of state-approved retail access programs. This Order denies rehearing and grants clarification in part and denies clarification in part of Order No. 712–A, and terminates Docket Nos. RM06–21–000 and RM07–4–000.

2. Several parties seek clarification and/or rehearing of Order No. 712–A. The Marketer Petitioners seek clarification concerning an asset manager's delivery obligation when an AMA includes released capacity on upstream and downstream pipelines.[2] The National Grid Gas Delivery Companies[3] request clarification, and National Fuel Gas Distribution Corporation (National Fuel) requests clarification, rehearing, or a limited waiver, concerning what releases qualify as releases to a marketer participating in a state-regulated retail access program. Consolidated Edison of New York Inc., (Con Ed) and Orange and Rockland Utilities, Inc., (O&R) (filing collectively), Energy America, New York State Electric and Gas Corporation (NYSEG) and Rochester Gas and Electric Corporation (RG&E) (filing collectively) seek clarification of Order No. 712–A or alternatively request waivers on the same issue raised by National Grid and National Fuel. The New York State Energy Marketers Coalition (NYSEMC) moved to intervene out of time and filed comments opposing the requests for clarification and waivers sought by National Fuel others on the retail access issue. The Commission denies rehearing of Order No. 712–A and grants in part, and denies in part, clarification of Order No. 712–A. The clarification granted in this order moots the requests for waivers.

Upstream Pipeline Delivery Obligations

Request for Clarification

3. In Order No. 712, the Commission exempted capacity releases that were meant to implement AMAs from the Commission's prohibition against tying and its bidding requirements. As part of the definition of AMAs that would qualify for these exemptions, the Commission determined that there must be a significant delivery or purchase obligation on the replacement shipper to deliver gas to, or purchase gas from, the releasing shipper in order to distinguish AMAs from standard capacity releases.[4] Accordingly, the Commission required that the release contain a condition that the ''releasing shipper may call upon the replacement shipper to deliver to, or purchase, from, the releasing shipper a volume of gas up to 100 percent of the daily contract demand of the released transportation or storage capacity.

[1] *Promotion of a More Efficient Capacity Release Market,* 73 FR 37058 (June 30, 2008), *FERC Statutes and Regulations* ¶ 31,271 (2008), (Order No. 712), *order on reh'g,* Order No. 712–A, 73 FR 72692 (December 1, 2008), FERC Stats. & Regs. ¶ 31,284 (2008) (Order No. 712).

[2] For purposes of this request for clarification, the Marketer Petitioners include Shell Energy NorthAmerica (US), L.P., ConocoPhillips Company, Chevron U.S.A. Inc., Constellation Energy Commodities Group, Inc., Tenaska Marketing Ventures, Merrill Lynch Commodities, Inc., Nexen Marketing U.S.A. Inc., UBS Energy LLC, and Citigroup Energy Inc.

[3] The National Grid Gas Delivery Companies comprise The Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery NY; KeySpan Gas East Corporation d/b/a KeySpan Energy Delivery LI; Boston Gas Company, Colonial Gas Company, EnergyNorth Natural Gas, Inc., and Essex Gas Company, collectively d/b/a KeySpan Energy Delivery NE; Niagara Mohawk Power Corporation d/b/a National Grid; and The Narragansett Electric Company d/b/a National Grid, all subsidiaries of National Grid USA, (collectively National Grid).

[4] Order No. 712 at P 144–153.

* * *''[5] That obligation must apply for the greater of five months or five/twelfths of the term of the release.[6] In Order No. 712–A, the Commission also clarified the delivery/purchase obligation portion of the AMA definition in several respects not at issue here.[7]

4. In addition, the Commission denied a request by the Public Service Company of North Carolina, South Carolina Electric and Gas Company and Scana Energy Marketing, Inc., (collectively Scana) to clarify that in a situation where parties include released capacity on both an upstream and downstream pipeline in an AMA, the asset manager's delivery obligation only applies to the released capacity on the downstream pipeline that directly connects to the releasing shipper's delivery point.[8] The Commission explained that if the delivery obligation did not apply to the full amount of the upstream released capacity, the releasing shipper could include capacity in the upstream release that it does not need for its own legitimate business purposes during the term of the release. The Commission concluded that while Scana was correct that the delivery/purchase obligation is not cumulative of the capacity in a released chain of contracts that constitute a single capacity path, the asset manager must have a delivery/purchase obligation up to the contract demand of each specific contract released to it.[9]

5. The Commission also denied Scana's and BP Energy Company's (BP) request for clarification that where released storage and transportation capacity are combined in an AMA, the delivery/purchase obligations associated with the release only apply to the transportation contract. The Commission ruled again that while the delivery/purchase obligation is not cumulative of the released transportation and storage capacity, to qualify for the exemptions provided for AMAs an asset manager must have the necessary purchase/delivery obligation for each separate contract for released capacity.[10]

6. The Marketer Petitioners seek clarification of both these rulings. Marketer Petitioners argue that while the rulings reflect the Commission's intent to confirm that the releases at issue are associated with *bona fide* AMAs, they will lead to uncertainty about the ultimate contractual delivery/purchase obligation at any specific delivery or receipt points under an AMA contract. For example, they state that a releasing shipper may have sequential transportation contracts on interconnected pipelines to bring gas to a delivery point on the downstream pipeline at the releasing shipper's city gate. For various reasons, however, the contract demands of the contracts on the upstream pipeline(s) may exceed the contract demand on the downstream pipeline that directly connects to the releasing shipper's city gate. Marketer Petitioners assert that this could occur as a result of the need for a shipper to provide fuel and lost and unaccounted for gas (LAUF) to each transporting pipeline in the chain.[11] While the Marketer Petitioners recognize that Order No. 712–A stated that the asset manager's delivery obligation to the releasing shipper's city gate is not cumulative of the contract demands under each contract, they argue that Order No. 712–A could be read to suggest that the asset manager has the obligation to deliver to the releasing shipper's city gate a volume equal to the full amount of the contract demand on the upstream pipeline, even though that volume exceeds the contract demand on the downstream pipeline. They contend that such a result appears inconsistent with Order No. 712's intent to promote efficient AMAs.[12]

7. The Marketer Petitioners claim the same may be true where a releasing shipper has options for both (1) long haul transportation from the production area and (2) short haul transportation from market area storage that form a ''network'' whereby the releasing shipper can serve its needs at its city gate delivery point. According to the Marketer Petitioners, this may result in optional capacity paths for an asset manager to transport gas, or withdraw gas from storage, to meet the releasing shipper's city gate delivery point obligations. Marketer Petitioners assert that requiring the asset manager's delivery/purchase obligation to apply to the full contract demand under each capacity release in the transportation chain creates significant uncertainty as to the delivery obligation at the delivery points on the upstream pipelines and on the downstream pipeline at the releasing shipper's city gate.

8. The Marketer Petitioners posit an example in their pleading where the releasing shipper has capacity on upstream Pipelines A and B, and on downstream Pipeline C. Pipeline C connects with the releasing shipper's city gate. Both Pipelines A and B interconnect with Pipeline C at Point Y, which is the releasing shipper's receipt point on Pipeline C. (*See* Figure 1 below).[13] The releasing shipper has 1,000 Dth per day of short haul capacity on Pipeline A from market area storage to Point Y. The releasing shipper has 5,000 Dth per day of long haul capacity on Pipeline B from the production area to Point Y. The releasing shipper also has 5,000 Dth per day of capacity on Pipeline C from Point Y to its city gate. Thus the releasing shipper has the ability to transport 5,000 Dth from the production area over Pipelines B and C to its city gate. The releasing shipper also has the option to move 1,000 Dth per day from market area storage over Pipelines A and C to its city gate, if it is unable to obtain the full 5,000 Dth/day to fill pipeline B or because storage gas may be more economical on some days.

[5] 18 CFR 284.8(h)(3), as adopted by Order No. 712–A.

[6] *Id.*

[7] *See* Order No. 712–A at P 79–82.

[8] *Id.* P 86–87.

[9] *Id.* P 87.

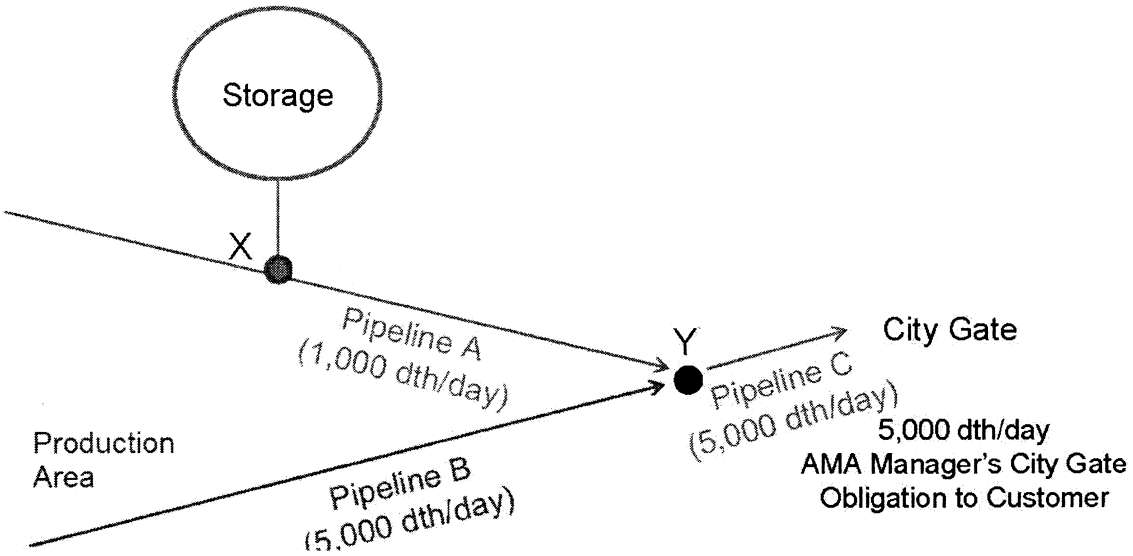
[10] *Id.* P 88.

[11] Marketer Petitioners' clarification request at 3.

[12] *Id.* at 4.

[13] *Id.* The example in Figure 1 substantially replicates the example filed by the Marketer Petitioners except that they included storage withdrawal right figures that we omit here.

Figure 1



9. The Marketer Petitioners state it is unclear in this situation if the asset manager's delivery obligation at the releasing shipper's city gate is equal to (1) the releasing shipper's 5,000 Dth contract demand on Pipeline C, or (2) the releasing shipper's 6,000 Dth total of the releasing shipper's 1,000 Dth contract demand on Pipeline A and 5,000 Dth contract demand on Pipeline B. Marketer Petitioners also question whether, if the delivery obligation is only 5,000 Dth at the city gate, the asset manager nevertheless has a 6,000 Dth delivery obligation at Point Y. Marketer Petitioners state that, without certainty as to the Commission's view of the location and amount of the required delivery obligation, it is unclear if all of the transportation and storage capacity is eligible for inclusion in an AMA.

10. Marketer Petitioners thus request clarification that the ruling that an asset manager's delivery/purchase obligation must apply to the full contract demand under each capacity release in a transportation chain is not intended to alter that asset manager's obligation at a particular point, or in other words, that it does not add additional delivery points to an AMA. Specifically, in the example described above, they request clarification that, while the asset manager may have a delivery obligation associated with the releases on Pipelines A, B, and C, of 1,000 Dth/day, 5,000 Dth/day, and 5,000 Dth per day, respectively, that would not alter the asset manager's contractual 5,000 Dth/day delivery obligation to the releasing shipper at its city gate. They claim that such a clarification would affirm the Commission's holding that it does not intend the delivery/purchase obligation under an AMA to be cumulative of the total contract demands associated with the capacity in a released chain and make clear that the Commission did not intend to allow AMA customers to use the Commission's rulings to enlarge their delivery/purchase entitlements at a particular receipt or delivery point under an AMA.

11. The Marketer Petitioners note that any concern that the Commission may have about ''unneeded'' capacity being included in an AMA could be addressed by the Commission clarifying that when an AMA encompasses capacity released on more than one pipeline, the posting should indicate that the AMA also involves capacity on other pipeline(s) and should be posted by all the pipelines involved. They assert that such a posting requirement would illuminate the totality of the release capacity to be included in the AMA.

Commission Determination

12. The Commission grants clarification in part and denies clarification in part. As we stated in Order No. 712–A, the asset manager's delivery/purchase obligation must apply to the full contract demand under each capacity release in the transportation chain.[14] In other words, each release to an asset manager is a separate capacity release that must have its own delivery/purchase obligation in order to qualify as an AMA. As we also noted in Order No. 712–A, in the situation where there is a capacity chain on several pipelines, the delivery purchase obligation need not be cumulative to the extent that gas delivered from the upstream pipeline to the downstream pipeline can be transported using the released capacity on the downstream pipeline.

13. The Commission grants clarification that the asset manager's delivery obligation at the releasing shipper's city gate need only be up to the contract demand of the released capacity on the downstream pipeline that interconnects directly with the releasing shipper's city gate. The fact the releasing shipper may have also released to the asset manager capacity on an upstream pipeline or pipelines with total contract demand exceeding the released capacity on the downstream pipeline does not increase the asset manager's required delivery obligation at the releasing shipper's city gate on the downstream pipeline. Thus, in the example set forth in Figure 1, the asset manager's delivery obligation at the releasing shipper's city gate would be equal to the 5,000 Dth/day released capacity on Pipeline C, despite the fact the released capacity on Pipelines A and B totals 6,000 Dth/day.

14. While a releasing shipper may release capacity to an asset manager on an upstream pipeline(s) that exceeds the released downstream capacity, the asset manager must have a delivery obligation

[14] Order No. 712–A at P 87.

under each such upstream capacity release up to the contract demand of that release. In the Figure 1 example, the asset manager's delivery obligations on Pipelines A and B must be 1,000 Dth/day and 5,000 Dth/day, respectively. Thus, to the extent the Marketer Petitioners seek clarification that an asset manager's delivery obligation at delivery points on upstream pipeline(s) cannot exceed its delivery obligation at the city gate delivery point on the downstream pipeline, the Commission denies that request. As the Commission held in Order No. 712–A, if the asset manager's delivery obligation on the upstream pipeline did not apply to the full amount of upstream released capacity, the releasing shipper could include capacity in the upstream release that it does not need for its own legitimate business purposes during the term of the release.

15. In such a situation, however, if the releasing shipper requires the asset manager to deliver volumes on the upstream pipelines that exceed the contract demand on the downstream pipeline, the releasing shipper would be required to take delivery of the excess volumes at points on the upstream pipeline or pipelines, and would also be responsible for transporting that excess gas away from those points. In the example in Figure 1, for instance, the releasing shipper could require the asset manager to deliver 6,000 Dth to Point Y. That releasing shipper, however, would have to take delivery of 1,000 Dth of that gas at Point Y and make its own additional arrangements to have the gas transported away from Point Y, since this quantity exceeds the asset manager's released capacity rights on the downstream pipeline. The releasing shipper could not require the asset manager to transport more than 5,000 Dth/day on Pipeline C from Point Y to the city gate. The asset manager could only be held responsible for transporting to the releasing shipper's city gate a volume up to the contract demand on the downstream pipeline.[15]

16. The Commission finds that this rule is straightforward, non-discriminatory and the most reasonable to administer for both parties and the Commission. It is also consistent with the Commission's clarification in Order No. 712–A that the delivery obligations for AMAs associated with a chain of upstream and downstream pipelines and contracts are not cumulative. Further, it minimizes the potential for parties to include unneeded upstream capacity in an AMA.[16]

Retail Access Programs

Requests for Clarification and/or Waivers

17. In Order No. 712, as affirmed in Order No. 712–A, the Commission determined that capacity releases by local distribution companies (LDC) to implement state-approved retail access programs should be granted the same blanket exemptions from the prohibition against tying and the bidding requirements as capacity releases made in the AMA context.[17] In order to qualify for the exemptions, the Commission determined that the released capacity must be used by the replacement shipper to provide the gas supply requirements of retail consumers pursuant to a retail access program approved by the state agency with jurisdiction over the LDC that provides delivery service to such retail consumers.[18] In Order No. 712–A, the Commission clarified that a marketer participating in a state-approved retail choice program can re-release its capacity to an asset manager that will fulfill the marketer's obligation under the state-approved program.[19] The Commission declined to grant a request for clarification, however, that a wholesale supplier who obtains capacity directly from an LDC as part of an unbundling program but who is not a marketer under the program nonetheless qualifies for the tying and bidding exemptions.[20] The Commission determined that such a clarification was not appropriate for this generic rulemaking proceeding because BP was requesting the Commission to approve a specific deal structure that does not meet the criteria under which the rule generally grants exemptions. The Commission noted that BP or any other parties are free to file separately on a case-by-case basis for approval of individual arrangements that it believes may merit a waiver of the Commission's bidding and tying strictures.[21]

18. Several parties seek clarification of that ruling. National Grid seeks clarification that an LDC releasing capacity as part of a state-approved retail access program may release directly to a marketer's asset manager as long as the asset manager has an identical obligation to supply gas to the marketer as the marketer's obligation to supply gas to the releasing LDC. National Grid asserts that certain marketers that participate in its state-approved retail access program are requesting that they be allowed to release directly to their asset manager so that the asset manager, not the marketer, will be the one who has to meet the creditworthiness standards of the pipeline. National Grid asserts that cutting out the middle man will enable marketers to avoid having to post scarce credit assurances.

19. National Grid also requests clarification that an LDC that releases to an asset manager can require the asset manager to release capacity to marketers serving under the retail choice program and that such a release will qualify for the exemptions. National Grid asserts that the need for this clarification arises from the fact that the number of customers participating in an LDC's retail choice program may change from time to time and thus the LDC may release to an asset manager only to find out that some sales customers have changed to transportation only service. National Grid claims this change necessitates a release by the LDC to the converting customers' marketers. National Grid stated that the requested clarification will allow for more efficient releases because the LDC could direct the asset manager to effectuate those new releases.

20. National Fuel seeks clarification that the prohibition against tying and the bidding requirements do not apply to releases by an LDC to a marketer when the marketer is acting as an agent of a retail access marketer pursuant to a state-mandated retail access program. It asserts the situation described by BP in BP's request for clarification of Order No. 712—where a wholesale entity receives releases as part of a state-approved program, for the purpose of selling gas to another retail marketer that makes sales directly to retail customers—is not a unique situation and should be the subject of the general rulemaking proceeding. National Fuel asserts that not all marketers participating in state-approved retail unbundling programs sell directly to

[15] The same analysis applies if the releasing shipper reserves storage withdrawal rights in excess of its contract demand on the interconnecting pipeline. See Marketer Petitioners' request for clarification at 5.

[16] The Commission's additional explanation of its rule should remove any uncertainty the Marketer Petitioners have concerning the need to reflect fuel and LAUF in the contracts on each pipeline in the chain. An asset manager may include the extra volumes necessary to cover fuel retention and LAUF charges at each interconnecting point in the pipeline chain. The customer may not, however, require that the asset manager deliver the cumulative volume to the most downstream delivery point. (See example on page 3 of the Marketer Petitioners' clarification request).

[17] Order No. 712 at P 199; Order No. 712–A at P 115.

[18] Order No. 712 at P. 200; Order No. 712–A at P 115.

[19] Order No. 712–A at P 118.

[20] *Id.* P 121–122.

[21] *Id.* P 122.

consumers. They claim that in New York, for example, the state choice program allows both the release of capacity to retail marketers selling directly to consumers and for the release of capacity to marketers that are contractually entitled to act as agents for the retail marketers selling to consumers.[22] National Fuel explains that the latter arrangements may occur because retail marketers may have difficulty acquiring all the releases necessary to meet their obligations under the program, often due to credit issues. National Fuel states that in the agency situation the retail marketer will enter into an agency agreement through which a second marketer becomes the first marketer's agent for purposes of acquiring the released capacity from the LDC. The agent marketer agrees to acquire the necessary capacity from the LDC and to sell gas to the retail marketer at the city gate for the purposes of fulfilling the retail marker's obligations under the program. According to National Fuel, this sort of arrangement does not raise the same concerns as that described by BP because of the ''agency'' relationship. National Fuel asserts that if the Commission does not grant clarification of the regulation, then it should amend the regulations to include both retail marketers in state-approved programs and their agents.

21. Alternatively, National Fuel seeks a limited waiver for the situation described above. It states the waiver would only apply under the following circumstances: (1) Releases to these marketers would occur only when there is a valid, written agency agreement between the retail marketer and the marketer receiving releases of capacity, requiring the marketer to act as agent for the retail marketer and obligating the agent to meet the retail marketer's gas supply needs; and (2) the marketer acting as agent must do so as part of a state-approved customer choice program and under published state-approved tariffs and/or procedures. National Fuel argues that the result would be fully consistent with both the goal of the exemptions for state choice programs and the non-discriminatory and efficiency goals of Order No. 712.

22. The New York State Public Service Commission (NYPSC) filed in support of both National Grid's and National Fuel's clarification requests. The NYPSC asserts that Order No. 712–A should be clarified to avoid ''hindering'' state retail access programs. It claims that the releases at issue are made to effect service to the very same customers for whose benefit the pipeline capacity was purchased by the releasing LDC and that without the exemptions provided by Order No. 712 it would be more difficult for marketers to provide service to their end use customers. The NYPSC further argues that requiring the issue to be resolved on a case by case basis does not foster the Commission's goals and harms state retail access programs.

23. Other LDCs located in New York also filed in support of National Grid's and National Fuel's requests. Con Ed and O&R assert that a release to a ''wholesale marketer acting as agent for a retail marketer participating in a state-approved retail choice program is equivalent to a capacity release directly to a retail marketer.'' [23] They assert that based on the principles of agency law the principal and agent are equally bound by the contract made by an agent acting within the scope of an agency relationship, and thus a wholesale marketer that obtains capacity as a replacement shipper, when acting as agent for the retail marketer, is obtaining capacity for the direct benefit of the retail marketer and state retail access program. They also support the arguments regarding the potential creditworthiness difficulties of the retail choice marketers. Con Ed and O&R seek company specific waivers in the event the Commission denies the clarification requests.

24. NYSEG and RG&E lend similar support to the clarification requests claiming that state retail access releases involve storage as well as transportation and that without the ability to use an agent to obtain the capacity and serve the retail load many retail marketers may not be able to participate in the program. They also seek a waiver in the event the Commission denies clarification.

25. Energy America filed support for the clarification requests stating that it has acted as agent for Direct Energy Services and other retail marketers with respect to sourcing needs and managing transportation and storage capacity. Energy America states that as agent, it signs an agency agreement with the LDC making clear that it is acting as an agent to provide service to the retail marketer under the retail access program. The LDC then releases capacity to the agent who transports and sells gas to the retail marketer at the city gate. Energy America asserts that without a clarification or waiver, retail marketers may be unable to participate in retail access programs.

26. The NYSEMC filed comments requesting that the Commission reject National Grid's clarification. It asserts that National Grid seeks a blanket exemption for all marketers acting as agents in retail choice programs, not a company specific waiver as suggested in Order No. 712–A. Further, NYSEMC takes issue with the claim that the Commission should grant the clarification because some marketers may not be able to meet the financial or technical requirements of interstate pipelines. It asserts that lack of financial capability is not a reason to expand the scope of exemptions granted by Order No. 712.

27. NYSEMC argues that granting a broad exemption as requested by the New York utilities that also operate in Pennsylvania and elsewhere would effectively result in a blanket waiver of the type denied in Order No. 712–A. It also argues that granting the requested relief would increase the risk of defaults by permitting less creditworthy suppliers access to systems they would not otherwise be able to obtain. It claims that it would not be in the public interest to allow circumvention of creditworthiness standards in the current credit climate and that relaxed credit requirements were actually one of the causes of the current economic situation. It further argues that the Commission would hinder the continued development of a viable and robust competitive market by affording certain marketers preferential credit treatment.

28. National Grid answers NYSEMC's comments, claiming that NYSEMC mischaracterizes National Grid's clarification request by framing it as a request for an open-ended exemption. National Grid asserts that it is requesting an exemption only where the wholesale marketer supplier advises the LDC that the marketer has an obligation to supply gas to the retail marketer that is equivalent to the retail marketer's obligation to supply gas to the releasing LDC's customers. National Grid claims such obligation could be created by an agency relationship or some other contractual framework. National Grid also states that NYSEMC's concerns about creditworthiness of small customers are misplaced because the wholesale supplier would still be required to meet the pipeline's creditworthiness standards. National Grid also notes that granting its clarification would provide retail customers with a greater choice of providers.

Commission Determination

29. The Commission clarifies that the exemptions from bidding and the prohibition against tying for releases to

[22] National Fuel request for clarification at 7.

[23] Con Ed/O&R support for clarification at 4.

marketers participating in state-regulated retail access programs apply to any release where the marketer replacement shipper is obligated to use the capacity to provide the gas supply requirement of retail consumers in the program. Even if the marketer does not itself make sales directly to the subject retail consumers, this condition can be satisfied so long as the marketer has a contractual obligation to use the full amount of the released capacity to supply gas to the retail access marketer and the retail access marketer is, in turn, obligated to supply that gas to the retail consumers pursuant to a state-regulated retail access program.

30. As stated above, in Order Nos. 712 and 712–A the Commission exempted from bidding releases ''to a marketer participating in a state-regulated retail access program as defined in paragraph (h)(4) of this section * * *.'' [24] In section 284.8(h)(4) of the revised regulations, the Commission defined releases to a ''marketer participating in a state-regulated retail access program'' as ''any prearranged capacity release that will be utilized by the replacement shipper to provide the gas supply requirement of retail consumers pursuant to a retail access program * * *.'' [25] This definition applies to any replacement shipper which is obligated to use the released capacity to transport gas which will be used to provide the gas supply requirement of the retail consumers, whether that shipper makes the retail sales itself or sells the gas to the retail marketer who then resells the gas to the retail consumers.[26] The Commission's rationale in Order No. 712 for granting the exemptions from the tying prohibition and bidding requirements for capacity releases by LDCs to implement state-approved retail access programs applies equally to the situation where an LDC releases capacity directly to the retail marketer or to another entity which is obligated to transport the gas on behalf of the retail marketer. The essential requirement is that the replacement shipper either (1) is itself the retail marketer or (2) has a contractual relationship with the retail marketer and/or the LDC requiring it to use up to the full amount of the released capacity to satisfy the retail marketer's obligations under the state-approved retail access program to provide the gas supply requirement of retail consumers.

31. The Commission rejects the argument that granting this clarification will allow circumvention of interstate pipeline creditworthiness standards. If a retail marketer is unable to satisfy these standards, the replacement shipper supplier will be required to satisfy the pipeline's creditworthiness criteria. If no party can meet these standards then the pipeline does not have to allow the release.

32. The Commission also grants National Grid's requested clarification that an LDC that releases to an asset manager can require the asset manager to release capacity to marketers serving under the retail choice program and that such a release will qualify for the exemptions from the tying prohibition and bidding requirements. This condition is one that can be addressed in the agreement between the releasing shipper and asset manager, and will allow LDCs and asset managers to operate efficiently to effectuate the goals of retail access programs.

33. The clarifications granted above render the various requests for waiver moot.

Termination of Dockets

34. The Commission initiated Docket Nos. RM06–21 and RM07–4 to address a petition filed by Pacific Gas and Electric Co. and Southwest Gas Corporation concerning the potential removal of the maximum rate ceiling on capacity release transactions and a petition filed by the Marketer Petitioners seeking clarification of the operation of the Commission's capacity release rules in the context of asset management services. The issues raised in the petitions have been fully addressed in the instant docket. Accordingly, the Commission hereby terminates Docket Nos. RM06–21 and RM07–4.

The Commission orders:

(A) The requests for rehearing of Order No. 712–A are denied and the requests for clarification of Order No. 712–A are granted in part and denied in part as discussed above.

(B) Docket Nos. RM06–21 and RM07–4 are hereby terminated.

By the Commission.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9–9111 Filed 4–20–09; 8:45 am]

BILLING CODE 6717–01–P

[24] See 18 CFR 284.8(h)(1).

[25] 18 CFR 284.8(h)(4).

[26] Some of the parties requesting clarification describe an ''agency'' relationship whereby the agent would obtain the released capacity and then sell gas to its principal, the retail marketer. *See* National Fuel's request at 7. This arrangement, as well as what we understand as a traditional agency arrangement, where the principal would continue to hold title to the capacity and the gas, and thus there would be no need for a ''resale'' to the retail marketer (principal), are both acceptable to the Commission as releases eligible for the exemptions from tying and bidding provided the ''agent'' is obligated to serve the retail marketer's needs as described above under the retail access program.

DEPARTMENT OF LABOR

Office of Labor-Management Standards

29 CFR Parts 403 and 408

RIN 1215–AB62

Labor Organization Annual Financial Reports

AGENCY: Office of Labor-Management Standards, Employment Standards Administration, Department of Labor.

ACTION: Final rule; delay of effective date and applicability date.

SUMMARY: This final rule delays the effective date and applicability date of regulations pertaining to the filing by labor organizations of annual financial reports required by the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA) that were published in the **Federal Register** on January 21, 2009. They revised Labor Organization Annual Report Form LM–2 and established a procedure whereby the Department may revoke, when warranted, a labor organization's authorization to file the simplified Labor Organization Annual Report Form LM–3. These regulations were to have gone into effect on February 20, 2009, but were delayed until April 21, 2009, by a final rule published on February 20, 2009 (74 FR 7814). This final rule postpones the effective date of the regulations from April 21, 2009, until October 19, 2009, and the applicability date of the regulations from July 1, 2009, until January 1, 2010. This will allow additional time for the agency and the public to consider a proposal to withdraw the January 21 regulations and, meanwhile, to permit unions to delay costly development and implementation of any necessary new accounting and recordkeeping systems and procedures, pending this further consideration. At the same time, the Department has published a Notice of Proposed Rulemaking elsewhere in this issue of the **Federal Register**, seeking public comment on its proposal to withdraw the regulations.

DATES: The effective date of the rule amending 29 CFR Parts 403 and 408, published January 21, 2009, at 74 FR 3678, is delayed until October 19, 2009, and its applicability date is delayed until January 1, 2010.

FOR FURTHER INFORMATION CONTACT: Denise M. Boucher, Director, Office of Policy Reports and Disclosure, Office of Labor-Management Standards, Employment Standards Administration, U.S. Department of Labor, 200

Constitution Avenue, NW., room N–5609, Washington, DC 20210, (202) 693–1185. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

I. Background and Overview

Section 201(b) of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA) (Pub. L. 86–257, 73 Stat. 519), requires each covered labor organization to file annually with the Secretary of Labor a financial report, signed by its president and treasurer or corresponding principal officers, containing information in the detail necessary to disclose accurately its financial condition and operations for the preceding fiscal year. The Secretary of Labor has delegated the Secretary's authority under the LMRDA to the Assistant Secretary for Employment Standards.

The requirements of LMRDA section 201 apply to all labor organizations in the private sector including those representing employees under the provisions of the National Labor Relations Act, as amended, and the Railway Labor Act, as amended. Section 1209(b) of the Postal Reorganization Act made the LMRDA applicable to labor organizations representing employees of the U.S. Postal Service. Section 701 of the Civil Service Reform Act of 1978 (CSRA) and section 1017 of the Foreign Service Act of 1980 (FSA), as implemented by Department of Labor regulations at 29 CFR parts 457–459, extended the LMRDA reporting requirements to labor organizations representing certain employees of the Federal government.

Section 208 of the LMRDA authorizes the Secretary to issue rules prescribing the form and publication of the annual financial reports required by section 201, and to provide a simplified report for labor organizations for which the Secretary finds that by virtue of their size a detailed report would be unduly burdensome. Under regulations issued pursuant to section 208, the Secretary has prescribed Form LM–2 for labor organizations with total annual receipts of $250,000 or more, and the simplified Form LM–3 for labor organizations with total annual receipts of $10,000 or more, but less than $250,000.

On January 21, 2009, the Department of Labor's Office of Labor-Management Standards (OLMS) published in the **Federal Register** (74 FR 3677) regulations making revisions to the Form LM–2 (used by the largest labor organizations to file their annual financial reports). The regulations, when effective, will require labor unions to report additional information on Schedules 3 (Sale of Investments and Fixed Assets), 4 (Purchase of Investments and Fixed Assets), 11 (All Officers and Disbursements to Officers) and 12 (Disbursement to Employees). The regulations also would add itemization schedules corresponding to categories of receipts, and establish a procedure and standards by which the Secretary of Labor may revoke a particular labor organization's authorization to file the simplified annual report, Form LM–3, where appropriate, after investigation, due notice, and opportunity for a hearing.

Consistent with the memorandum of January 20, 2009, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Review'' and the memorandum of January 21, 2009, from the Director of the Office of Management and Budget (OMB), entitled ''Implementation of Memorandum Concerning Regulatory Review,'' on February 3, 2009, OLMS published in the **Federal Register** a notice seeking comment on a proposed 60-day extension of the effective date and requesting comment on legal and policy questions relating to the regulations, including on the merits of rescinding or retaining the regulations. The notice was available for public inspection at the **Federal Register** on January 29, 2009 and was published on February 3, 2009 (74 FR 5899).

Public comment on the proposed extension was invited, with the comment period ending on February 13, 2009. The Department received 24 comments on the proposal to extend the effective date for 60 days. Public comment was also invited generally on the regulations, including the merits of rescinding or retaining them, with this comment period ending on March 5, 2009. The Department published a final rule on February 20, 2009, which postponed for 60 days the effective date of the regulations published on January 21, 2009 until April 21, 2009, for additional public comment and agency review of questions of law and policy (74 FR 7814).

On March 19, 2009, OLMS published a notice seeking public comment on a proposal to delay for an additional 180 days the April 21, 2009, effective date of the regulations published on January 21, 2009. This notice proposed to further delay the effective date until October 19, 2009. Additionally, this notice proposed to delay the applicability date of the regulations (establishing the start of the fiscal year for which the new reporting requirements would apply) set for July 1, 2009, until January 1, 2010. As discussed in that notice, the Department indicated that it would not able to complete its final review of the issues raised by the January 21 rule before April 21, 2009, the current effective date of the rule. Since that time, however, the Department has determined that the January 21 rule was promulgated without adequate review of experience under the Department's 2003 Form LM–2 rule, including the burden of reporting requirements and whether the requirements reflect a proper balance of the need for transparency and union autonomy. Thus, in a separate document published in this issue of the **Federal Register**, the Department is now proposing to withdraw the January 21 rule. Without further extension of the effective and applicability dates of the rule, those unions with fiscal years beginning on or after July 1, 2009, would have to begin immediate preparations to comply with the rule, preparations that may entail significant burden and expense, but which may prove unnecessary. Furthermore, the Department itself would have to expend substantial financial and compliance resources to prepare for the rule, resources that could be directed to other purposes if the rule is subsequently withdrawn. Therefore, the Department has decided to postpone, for 180 days, the effective date of the regulations published on January 21, 2009, until October 19, 2009, and delay the applicability date from July 1, 2009, until January 1, 2010, in order to review the comments on the proposal to withdraw the regulations and, meanwhile, to permit unions to delay costly development and implementation of any necessary new accounting and recordkeeping systems and procedures pending this further consideration.

II. Comments on the Proposal and the Department's Responses and Decision

The Department received comments from 27 individuals or associations on its proposal to postpone the effective date and applicability date of the new Form LM–2/LM–3 regulations. Five union commenters supported the extension as appropriate, arguing that it would enable effective review of the rule while avoiding the unnecessary burden on union resources in the event that the Department does rescind the regulations. One international union also offered additional comments on the merits of the regulations, and urged their rescission. Five commenters expressed general support for union transparency and the January 21 regulations, and they opposed any delay in their effective or applicability dates. Additionally, 17 commenters submitted form letters generally supporting the greater public disclosure of pay and

benefits to union officers and employees afforded under the January 21 regulations and urging implementation of the new reporting requirements without further delay.

Two Congressmen expressed concern that continued delay suggests political favoritism to a select constituency rather than regulatory integrity. They noted, as did two other commenters, that President Obama has emphasized the importance of public disclosure and financial accountability and that such accountability is no less needed for labor organizations than for the business sector.

The Department rejects the contention that a delay of the effective and applicability dates of the regulations suggests ''political favoritism.'' Rather, the Department proposed the initial 60 day delay of the effective date of the regulations and commenced a review of their merits in consideration of guidance from the Assistant to the President and Chief of Staff and the Office of Management and Budget (OMB) that was directed to all Executive branch agencies, without regard to particular agencies or program areas, to determine whether it might be appropriate to delay the effective date of regulations to permit their review for matters of law and policy before taking effect. Most commenters opposing the extension recognized that the Department's actions were triggered by this OMB guidance, and one association acknowledged that this review was necessary to provide the new Administration an opportunity to review rules issued during the waning days of the Bush Administration in order to prevent agencies from publishing rules that fail to meet the regulatory standards that OMB articulated in its guidance. The proposal to withdraw the regulations, and the decision made in this rulemaking to extend the effective and applicability dates derive from this review of the merits of the regulations, consistent with the OMB guidance. The Department has engaged in this process in a fully transparent manner, and the instant rulemaking has been, and will continue to be, undertaken in full compliance with the requirements of the Administrative Procedure Act.

One public policy organization argued that there is no justification for the extensions that outweigh the benefits to union members from the disclosure provided by the January 21 rule and asserted that a delay would ''immediately'' allow unions to avoid increased disclosure. However, even if the reporting revisions published on January 21, 2009, had not been postponed, there would have been no immediate changes in how unions report their finances. Rather, the initial applicability date for the regulations was July 1, 2009, and the first reports would not have been due until September 30, 2010. Notwithstanding the postponement of the effective date of the January 21 rule, an existing and effective labor organization reporting regime remains in place.

The Department reiterates the justification it offered in the notice proposing to extend the effective and applicability dates, namely that this additional time will enable the Department to complete a review of the issues raised by the January 21 rule, which the Department now proposes to withdraw, without exposing affected unions to undue burdens. Without the further extension, those unions with fiscal years beginning on or after July 1, 2009, would have to begin immediate preparations to comply with the rule, preparations that may entail significant burden and expense, but which may prove unnecessary. Further, since a decision has been made to propose withdrawal of the regulations, and if such proposal ultimately is effectuated, these expenses will have been incurred unnecessarily. While the Department strongly supports the need for union financial transparency, it also believes that preventing unions and the Department from incurring potentially unnecessary expenses and burdens outweighs any benefit gained from implementing the regulations a few months sooner.

A trade association defended union transparency and the January 21 regulations, and it argued against any delay or rescission of them by stressing the Administration's support of transparency, citing evidence that some individuals continue to abuse their union office by misappropriating and misusing members' money, and presenting an argument in support of the reporting of union payments made towards job targeting. The commenter also asserted that the Department's proposed extension upholds its prediction that the initial 60 day delay would be used by the regulations' opponents to justify an even further delay as a result of added administrative burdens required to implement the mandated changes, and it contended that an additional delay would only enable the labor community to have additional time to submit comments favorable to rescission. Additionally, the trade association stated its belief that, while the initial extension was understandable in light of the Administration directives, no further delay was warranted.

The Department disagrees with these contentions. As noted above, the Department has now proposed withdrawal of the January 21 rule. Delaying the implementation of the January 21 rule enables the Department to review comments on its proposal, while simultaneously preventing unions and the Department from incurring unnecessary costs and burdens in the event the regulations are withdrawn. Moreover, the proposed rescission is based on reasons that are consistent with the OMB guidance regarding regulatory review, in that the final rule did not reflect proper consideration of all relevant facts and was not based on reasonable judgment about the legally relevant policy considerations. As stated in the Department's proposal, the withdrawal of the January 21 rule is warranted because:

> * * * the rule was issued without an adequate review of the Department's experience under the relatively recent revisions to Form LM–2 in 2003 and because the comments indicate that Department may have underestimated the increased burden that would be placed on reporting labor organizations by the January 21 rule. Finally, the Department has concluded, based on the comments received, that the provisions related to the revocation of a small union's authorization to file a simpler form because it has been delinquent or deficient in filing that form are not based upon realistic assessments of such a union's ability to file the more complex form and are unlikely to achieve the intended goals of greater transparency and disclosure.

In light of the Department's decision to propose the withdrawal of the January 21 rule and the additional reasons stated above, the Department has decided to postpone, for 180 days, the effective date of the January 21, 2009, rule, until October 19, 2009, and delay the applicability date from July 1, 2009, until January 1, 2010.

Signed in Washington, DC, this 16th day of April 2009,

Shelby Hallmark,

Acting Assistant Secretary for Employment Standards.

Andrew D. Auerbach,

Deputy Director, Office of Labor-Management Standards.

[FR Doc. E9–9182 Filed 4–20–09; 8:45 am]

BILLING CODE 4510–CP–P

DEPARTMENT OF THE TREASURY

31 CFR Part 50

RIN 1505–AB93

Terrorism Risk Insurance Program; Terrorism Risk Insurance Program Reauthorization Act Implementation

AGENCY: Departmental Offices, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury (Treasury) is issuing this final rule as part of its implementation of amendments made by the Terrorism Risk Insurance Program Reauthorization Act of 2007 (Reauthorization Act) to Title I of the Terrorism Risk Insurance Act of 2002 (TRIA, or Act), as previously amended by the Terrorism Risk Insurance Extension Act of 2005 (Extension Act). The Act established a temporary Terrorism Risk Insurance Program (Program) that was scheduled to expire on December 31, 2005, under which the Federal Government shared the risk of insured losses from certified acts of terrorism with commercial property and casualty insurers. The Extension Act extended the Program through December 31, 2007, and made other changes. The Reauthorization Act extended the Program through December 31, 2014, revised the definition of an ''act of terrorism,'' and made other changes. This final rule contains regulations that Treasury is issuing to implement certain aspects of the Reauthorization Act. In particular, the rule addresses mandatory availability (''make available'') and disclosure requirements. An interim final rule with request for comments was published in the **Federal Register** on September 16, 2008, and generally incorporated the substance of interim guidance previously issued by Treasury and published in the **Federal Register**. Since no comments were received regarding the interim final rule, this final rule adopts the text of the interim final rule without revision.

DATES: This final rule is effective May 21, 2009.

FOR FURTHER INFORMATION CONTACT: Howard Leikin, Deputy Director, Terrorism Risk Insurance Program (202) 622–6770 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

A. Terrorism Risk Insurance Act of 2002

On November 26, 2002, the President signed into law the Terrorism Risk Insurance Act of 2002 (Pub. L. 107–297, 116 Stat. 2322). The Act was effective immediately. The Act's purposes are to address market disruptions, ensure the continued widespread availability and affordability of commercial property and casualty insurance for terrorism risk, and allow for a transition period for the private markets to stabilize and build capacity while preserving State insurance regulation and consumer protections.

Title I of the Act establishes a temporary Federal program of shared public and private compensation for insured commercial property and casualty losses resulting from an act of terrorism which, as defined by the Act, is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General. The Act authorizes Treasury to administer and implement the Terrorism Risk Insurance Program (the Program), including the issuance of regulations and procedures.

Each entity that meets the Act's definition of insurer must participate in the Program. The amount of Federal payment for an insured loss resulting from an act of terrorism is determined by insurance company deductibles and excess loss sharing with the Federal Government as specified in the Act and Treasury's implementing regulations. An insurer's deductible is calculated based on the value of direct earned premiums collected over certain prescribed calendar periods. Once an insurer has met its individual deductible, the Federal payments cover a percentage of the insured losses above the deductible, all subject to an annual industry aggregate limit of $100 billion.

The Act gives Treasury authority to recoup Federal payments made under the Program through policyholder surcharges. The Act reduces the Federal share of compensation for insured losses that have been covered under any other Federal program. The Act also contains provisions designed to manage certain litigation arising from or relating to a certified act of terrorism. Section 107 of the Act creates an exclusive Federal cause of action, provides for claims consolidation in Federal court, and contains a prohibition on Federal payments for punitive damages under the Program. The Act provides the United States with the right of subrogation with respect to any payment or claim paid by the United States under the Program.

The Program was originally set to expire on December 31, 2005. On December 22, 2005, the President signed into law the Terrorism Risk Insurance Extension Act of 2005 (Pub. L. 109–144, 119 Stat. 2660), which extended the Program through December 31, 2007, and made other significant changes to TRIA that included a revised definition of property and casualty insurance and creation of a new Program trigger that prohibits payment of Federal compensation by Treasury unless the aggregate industry insured losses resulting from a certified act of terrorism exceed a certain amount ($100 million in 2007 and any Program Year thereafter).

B. Terrorism Risk Insurance Program Reauthorization Act of 2007

Under the Extension Act, the Program was set to expire on December 31, 2007. On December 26, 2007, the President signed into law the Terrorism Risk Insurance Program Reauthorization Act of 2007 (Pub. L. 110–160, 121 Stat. 1839), which extended the Program through December 31, 2014 (*i.e.,* added additional Program Years to the Program). Other provisions of the Reauthorization Act:

- Revise the definition of ''act of terrorism'' to remove the requirement that the act of terrorism be committed by an individual acting on behalf of any foreign person or foreign interest in order to be certified as an act of terrorism for purposes of the Act.
- Define ''insurer deductible'' for all additional Program Years as the value of an insurer's direct earned premiums for commercial property and casualty insurance for the immediately preceding calendar year multiplied by 20 percent.
- Set the Federal share of compensation for insured losses (subject to a $100,000,000 Program trigger) for all additional Program Years at 85 percent of that portion of the amount of insured losses that exceeds the applicable insurer deductible.
- Require Treasury to submit a report to Congress and issue final regulations for determining the *pro rata* share of insured losses to be paid under the Program when aggregate insured losses exceed $100,000,000,000.
- Require the Secretary of the Treasury to notify Congress not later than 15 days after the date of an act of terrorism as to whether aggregate insured losses are estimated to exceed $100,000,000,000.
- Require for policies issued after the date of enactment, that insurers provide clear and conspicuous disclosure to the policyholder of the existence of the $100,000,000,000 cap at the time of offer, purchase, and renewal of a policy (in addition to current disclosure requirements).
- Revise the recoupment provisions of the Act. For purposes of recouping the Federal share of compensation under the Act, the ''insurance marketplace aggregate retention

amount'' for all additional Program Years is the lesser of $27,500,000,000 and the aggregate amount, for all insurers, of insured losses during each Program Year. With regard to mandatory recoupment of the Federal share of compensation through policyholder surcharges, collection is required within a certain schedule specified in the Reauthorization Act. The limitation that surcharges not exceed 3 percent of the premium charged for property and casualty insurance coverage under the policy is eliminated (but remains in the case of discretionary recoupment).

- Require Treasury to issue recoupment regulations within 180 days of enactment, and publish an estimate of aggregate insured losses within 90 days after an act of terrorism.
- Require the President's Working Group on Financial Markets to perform an ongoing analysis regarding the long-term availability and affordability of terrorism risk insurance and submit reports in 2010 and 2013.
- Require the Comptroller General to examine and report on the availability and affordability of insurance coverage for nuclear, biological, chemical, and radiological terrorist events; the future outlook for such coverage; and the capacity of insurers and State workers compensation funds to manage the risk associated with nuclear, biological, chemical, and radiological terrorist events.
- Require the Comptroller General to study and report on the question of whether there are specific markets in the United States where there are unique capacity constraints on the amount of terrorism risk insurance available.

C. The Interim Final Rule

The interim final rule was published in the **Federal Register** at 73 FR 53359 (September 16, 2008). It incorporated certain changes to 31 CFR Part 50 required by the amendments to TRIA in the Reauthorization Act. The rule included various conforming changes, such as a change to the definition of ''act of terrorism,'' and extension of applicable insurer deductible amounts and the Federal share of compensation for insured losses for additional Program Years.

This final rule, and the preceding interim final rule, reflect interim guidance previously issued by Treasury in a notice published in the **Federal Register** on January 29, 2008 (73 FR 5264), in order to assist insurers, policyholders, and other interested parties in complying with immediately applicable requirements of the Reauthorization Act. Treasury consulted with the National Association of Insurance Commissioners (NAIC) in developing the interim final rule. No comments were submitted on the interim final rule and therefore, Treasury is finalizing that rule by adopting the text without change.

II. Analysis of the Final Rule

The following briefly describes the content of the final rule. For a more detailed discussion, please refer to the interim final rule publication of September 16, 2008.

A. Definitions (§ 50.5)

The final rule incorporates revised definitions for the terms ''act of terrorism,'' ''Program Years,'' ''insurer deductible,'' and ''Program Trigger event.''

To conform to the Reauthorization Act, the definition of ''act of terrorism'' in § 50.5(b)(1)(iv) is revised to remove the requirement that the act be committed by an individual ''acting on behalf of any foreign person or foreign interest'' in order to be certified as an act of terrorism for purposes of TRIA.

The revisions to the definitions of ''Program Years,'' ''insurer deductible,'' and ''Program Trigger event'' merely conform these definitions to the changes in the Reauthorization Act.

B. Interim Guidance Safe Harbors (§ 50.7)

Section 50.7 of the final rule adds the Interim Guidance issued by Treasury on January 22, 2008, and published at 73 FR 5264 (January 29, 2008) to the list of Interim Guidance documents Treasury has issued.

C. Disclosure (§ 50.12)

The Reauthorization Act made no change to the requirement in section 103(b) of TRIA that insurers provide clear and conspicuous disclosure to the policyholder of the premium charged for insured losses covered by the Program and the Federal share of compensation for insured losses under the Program. However, because an ''insured loss'' is defined, in part, as a loss resulting from an act of terrorism, the revision of the definition of an act of terrorism to eliminate the ''foreign person or interest'' element (*i.e.,* to add what is often referred to as ''domestic terrorism'') may affect the premium charged for insured losses and an insurer's compliance with the disclosure requirements.

Section 50.12(b)(2) of the final rule states that if an insurer makes an initial offer of coverage, or offers to renew an existing policy on or after December 26, 2007, the disclosure provided to the policyholder must reflect the premium charged for insured losses covered by the Program consistent with the definition of an act of terrorism as amended by the Reauthorization Act. As a general matter, the requirement to make available coverage for insured losses must be met according to the provisions of the Act in effect at the time the offer is made. The disclosure must be consistent with the offer that is made.

Section 50.12(e)(3) of the final rule provides that if an insurer made available coverage for insured losses in a new policy or policy renewal in 2007 or in the first three months of 2008 for coverage becoming effective in 2008, but did not provide a disclosure at the time of offer, purchase or renewal of the policy, then the insurer must be able to demonstrate to Treasury's satisfaction that it has provided a disclosure as soon as possible following January 1, 2008. Treasury considers March 31, 2008, to be the latest reasonable date for compliant disclosures to policyholders, barring unforeseen or unusual circumstances. If the March 31, 2008, date was not met by an insurer, Treasury will expect the insurer to demonstrate, when submitting a claim for the Federal share of compensation under the Program, why it could not comply by that date.

D. Cap Disclosure (§§ 50.15 and 50.11)

Section 103(e)(2) of TRIA provides that if aggregate insured losses exceed $100,000,000,000 during any Program Year, Treasury shall not make any payment for any portion of the amount of such losses that exceeds $100,000,000,000, and no insurer that has met its insurer deductible shall be liable for the payment of any portion of the amount of such losses that exceeds $100,000,000,000. Section 103(b)(3) of TRIA, as amended by the Reauthorization Act, requires an insurer to provide a clear and conspicuous disclosure to the policyholder of the existence of the $100,000,000,000 cap under section 103(e)(2). The requirement applies to ''any policy that is issued after the date of enactment'' of the Reauthorization Act, or December 26, 2007. The disclosure must be made at the time of offer, purchase, and renewal of the policy.

New section 50.15 in the final rule addresses these requirements. Section 50.11 also includes a minor change to clarify that the term ''cap disclosure'' in the regulations refers to this disclosure required by section 103(b)(3) of the Act.

For policies issued after December 26, 2007, this cap disclosure must initially be provided to the policyholder at the

first occurrence thereafter of an offer, purchase or renewal. The final rule provides that, for policies issued after December 26, 2007, if an insurer does not provide a cap disclosure by the time of the first offer, purchase or renewal of the policy after December 26, 2007, then the insurer must be able to demonstrate to Treasury's satisfaction that it has provided the disclosure as soon as possible following December 26, 2007. Treasury considers March 31, 2008, to be the latest reasonable date for providing the cap disclosure (including reprocessing of policies, if necessary, where a compliant disclosure was not possible), barring unforeseen or unusual circumstances. If the March 31, 2008, date was not met by an insurer, Treasury will expect the insurer to demonstrate, when submitting a claim for the Federal share of compensation under the Program, why it could not comply by that date.

E. Use of Model Forms (§ 50.17)

Section 50.17(e) of the final rule adds a provision specifically addressing the cap disclosure. In addition, a minor refinement of section 50.17(a)(2) has been made in order to more accurately reflect section 105(c) of the Act.

On December 19, 2007, the NAIC modified Model Disclosure Forms No. 1 and 2 to satisfy the disclosure requirements of section 103(b) of the Act, including the cap disclosure requirement under section 103(b)(3). The new forms are found on the Treasury Web site at *http://www.treasury.gov/trip.* However, insurers are not required to use the NAIC forms, and may use other means to comply with the disclosure requirements.

F. Make Available (§§ 50.20 and 50.21)

The Reauthorization Act made no change to the TRIA ''make available'' requirements in section 103(c). However, because the ''make available'' requirements apply to insured losses, and an ''insured loss'' is defined, in part, as a loss resulting from an act of terrorism, the revision of the definition of an act of terrorism in the Reauthorization Act to add domestic terrorism may have an impact on an insurer's compliance with the ''make available'' requirements.

The Reauthorization Act was effective immediately upon enactment, December 26, 2007. The TRIA regulations in 31 CFR 50.21(a) generally provide that the ''make available'' requirements apply at the time of the initial offer of coverage or offer of renewal of an existing policy. Thus, any initial offers of coverage or offers of renewal of existing policies, made on or after the date of enactment, must be consistent with the revised definition of act of terrorism. In addition, if an insurer makes an offer of coverage on or after December 26, 2007 on a policy that is in mid term, then the insurer must make available coverage for insured losses consistent with the revised definition of an act of terrorism. These general rules are included in revised section 50.21(b) of the final rule.

Section 50.21 addresses in detail insurer implementation of the ''make available'' requirements under various circumstances as a result of enactment of the Reauthorization Act. Treasury considers March 31, 2008, to be the latest reasonable date for compliant offers of coverage (including reprocessing of policies, if necessary, where a compliant post-December 26, 2007 offer was not possible), barring unforeseen or unusual circumstances. If the March 31, 2008, date was not met by an insurer, Treasury will expect the insurer to demonstrate, when submitting a claim for the Federal share of compensation under the Program, why it could not comply by that date.

Section 50.21(c)(2) addresses policies where the coverage for insured losses expired as of December 31, 2007, but other coverage under the policy continued in force in 2008. An insurer must make coverage for insured losses available for the remaining portion of the policy term and, under section 50.21(e)(4), an insurer must be able to demonstrate to Treasury's satisfaction that it has offered such coverage as soon as possible following January 1, 2008. However, if a policyholder had declined an offer made by an insurer for coverage for insured losses expiring as of December 31, 2007, then the insurer is not required to make a new offer of coverage before the policy is due to be renewed.

Section 50.21(e)(5) addresses situations where coverage became effective in 2008. Section 50.21(e)(5)(i) requires that if an insurer processed a new policy or policy renewal in 2007, or in the first three months of 2008, for coverage becoming effective in 2008, but did not make available coverage for insured losses, then the insurer must be able to demonstrate to Treasury's satisfaction that it has provided an offer of coverage for insured losses as soon as possible following January 1, 2008.

Under section 50.21(e)(5)(ii), if an insurer made an initial offer or offer of renewal of coverage for insured losses on or after December 26, 2007, for a policy term becoming effective in 2008, but the scope of the insured losses in the offer was inconsistent with the Reauthorization Act's revised definition of an act of terrorism, then an insurer must make a new offer of coverage as soon as possible following January 1, 2008. If an insurer made an initial offer of coverage or offer of renewal before December 26, 2007, for a policy term becoming effective in 2008, and coverage for insured losses was in compliance with the Act and the definition of an act of terrorism at the time of the offer, then the insurer is not required to make a new offer of coverage before the policy is due to be renewed.

G. Federal Share of Compensation (§§ 50.50 and 50.53)

These sections of the final rule include other minor and conforming changes to reflect the extension of the Program and the inclusion of the cap disclosure.

III. Procedural Requirements

This final rule is not a significant regulatory action under the terms of Executive Order 12866.

Regulatory Flexibility Act. Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that this final rule will not have a significant economic impact on a substantial number of small entities. The final rule implements changes prescribed or authorized by the Reauthorization Act. TRIA requires all insurers, regardless of size or sophistication, that receive direct earned premiums for any type of commercial property and casualty insurance, to participate in the Program. The Act also defines ''property and casualty insurance'' to mean commercial lines without any reference to the size or scope of the commercial entity. The rule allows all insurers, whether large or small, to use existing systems and business practices to demonstrate compliance. The disclosure and ''make available'' requirements are required by the Act. In addition, the Act now defines an ''act of terrorism'' to include domestic terrorism. Any economic impact associated with the final rule flows from the Act and not the final rule. However, the Act and the Program are intended to provide benefits to the U.S. economy and all businesses, including small businesses, by providing a Federal reinsurance-type backstop to commercial property and casualty insurers and spreading the risk of insured losses resulting from an act of terrorism. Accordingly, a regulatory flexibility analysis is not required.

List of Subjects in 31 CFR Part 50

Terrorism risk insurance.

Authority and Issuance

■ For the reasons set forth above, the interim final rule amending 31 CFR Part 50, which was published at 73 FR 53359 on September 16, 2008, is adopted as a final rule without change.

Kenneth E. Carfine,

Acting Under Secretary for Domestic Finance.

[FR Doc. E9–9007 Filed 4–20–09; 8:45 am]

BILLING CODE 4810–25–P?≤

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2007–1045; FRL–8894–1]

Approval and Promulgation of Air Quality Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a site-specific revision to the Minnesota sulfur dioxide (SO_2) State Implementation Plan (SIP) for the Olmsted Waste to Energy Facility (OWEF), located in Rochester, Olmsted County, Minnesota. In its September 28, 2007, submittal, the Minnesota Pollution Control Agency (MPCA) requested that EPA approve certain conditions contained in OWEF's revised Federally enforceable Title V operating permit into the Minnesota SO_2 SIP. The request is approvable because it satisfies the requirements of the Clean Air Act (Act). The rationale for the approval and other information are provided in this rulemaking action.

DATES: This direct final rule will be effective June 22, 2009, unless EPA receives adverse comments by May 21, 2009. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2007–1045, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail: mooney.john@epa.gov.*
3. *Fax:* (312) 886–5824.
4. *Mail:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2007–1045. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. We recommend that you telephone Christos Panos, Environmental Engineer, at (312) 353–8328 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Christos Panos, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8328, *panos.christos@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. General Information

1. What is the Background for this Action?

OWEF, a municipal waste combustor facility owned by Olmsted County, is located at 301 Silver Creek Road Northeast, in Rochester, Olmsted County, Minnesota. The facility is a district heating and cooling plant as well as an electric power generating station. Energy is produced mainly through combustion of municipal solid waste in two mass burn combustion units. The other emission units are a diesel generator that provides emergency electrical power and occasional peaking capacity and an auxiliary boiler used when the waste combustor is going through maintenance. Minnesota originally submitted a Title V permit for OWEF as part of the Minnesota SO_2 SIP for Olmsted County on November 4, 1998. This Title V permit contains the SO_2 emission limits and operating restrictions imposed on the facility to provide for attainment and maintenance of the SO_2 National Ambient Air Quality Standards (NAAQS).

2. What information did Minnesota submit, and what were its requests?

The SIP revision submitted by MPCA on September 28, 2007, consists of Minnesota Air Emission Permit No. 10900005–002, issued to OWEF on August 23, 2007, which serves as a joint Title I/Title V document. The state has requested that EPA approve only the portions of the permit cited as ''Title I

condition: State Implementation Plan for SO_2'' into the Minnesota SO_2 SIP.

Minnesota held a public hearing regarding the SIP revision and the joint Title I/Title V document on August 2, 2007. No comments were received at the public meeting nor during the 30-day public comment period.

3. Why is EPA Taking this Action?

EPA is taking this action because the state's submittal for OWEF is fully approvable. The SIP revision provides for attainment and maintenance of the SO_2 NAAQS and satisfies the applicable SO_2 requirements of the Act.

Under current SIP conditions, waste combustor units (EU 001 and EU 002) are equipped with Continuous Emission Monitors (CEMs) to monitor SO_2 and are collectively limited to 67 pounds per hour (lbs/hr) SO_2 on a 24-hour block average and 154 lbs/hr on a 3-hour block average. Their combined SO_2 emissions are also limited to 22.6 lbs/hr using a 365 day rolling average through a non-SIP Title I condition which is necessary to keep the source at non-major levels for SO_2. The emergency diesel generator (EU 003) is limited to 48,000 gallons per year of 0.05 percent sulfur content fuel oil using a 12-month rolling sum. The auxiliary boiler (EU 004) is subject to operating restrictions when burning fuel oil and is limited to 286,000 gallons of 0.05 percent sulfur content fuel oil per year. The facility is required to retain fuel oil receipts or test for the sulfur content. The SIP also contains provisions relating to recordkeeping and the reporting of deviations from sulfur content requirements.

Requested changes to the facility include: (1) The addition of a new municipal waste combustor unit (EU 007) with a capacity of 200 tons per day, doubling the facility's total capacity; (2) the replacement of the existing 1200 kilowatt (kW) emergency diesel generator (EU 003) with a larger, 1750 kW emergency generator (EU 008); (3) the addition of a stack for the new emergency generator, raising the stack height from near ground level to about 50 feet; and, (4) the removal of the operating restriction that prevents the operation of the auxiliary boiler (EU 004) when more than one waste combustor is in operation, allowing the facility the flexibility to simultaneously operate all three combustor units and the auxiliary boiler.

The current SIP emission limits will be maintained for the existing waste combustor units (EU 001 and EU 002), but there will be additional emissions limits added to the SIP based on Federal standards in 40 CFR part 62, which will result in limited emissions of 77 parts per million (ppm) or 16.3 lbs/hour, based on a 24-hour average. The new waste combustor (EU 007) will have limited SO_2 emissions in the SIP of 30 ppm by dry volume, using a 24-hour geometric average based on Federal standards found in 40 CFR part 62. The new emergency diesel generator (EU 008), primarily used for backup and shutdown purposes, will continue to be limited to 48,000 gallons per year of fuel oil using a 12-month rolling sum, and under most situations would not be used while all of the waste combustor units are in continuous operation. Finally, the auxiliary boiler (EU 004) can be fired on fuel oil or natural gas, with a limit of 286,000 gallons per year of fuel oil.

Further, since the last SIP revision to the facility, the existing waste combustor units (EU 001 and EU 002) have undergone an air pollution control retrofit project including installation of spray-dryer absorbers (SDAs) for control of SO_2 emissions. The emission rates from the auxiliary boiler (EU 004) and the new emergency diesel generator (EU 008), when in operation, will decrease based on a reduction in the allowable sulfur content of the fuel to 0.0015% by weight from the current limit of 0.05% by weight. The emergency diesel generator will also now exhaust through a 50 foot stack, rather than a ground-level grate, improving pollutant dispersion.

The previous air quality dispersion modeling for the SIP, conducted in 1998, was done prior to the installation of SO_2 controls on the existing waste combustor units (EU 001 and EU 002). The existing emergency diesel generator (EU 003) was modeled using ''very low sulfur'' (500 ppm) distillate oil, and exhausting through a ground-level grate. The auxiliary boiler (EU 004) was also modeled using very low sulfur distillate oil, resulting in various permit restrictions on the amount of distillate oil that could be fired relative to the operating state of Units 1 and 2.

Revised air dispersion modeling was conducted using the AERMOD model with Rochester meteorological data to ensure continued attainment of the SO_2 NAAQS in the area. Based on the modeling results, the requested changes to the SIP for OWEF described above have significantly less impacts than currently allowed under the existing SIP. The impacts of the desired future SIP scenario, when compared to the current operating scenarios in the SIP, were approximately 50% lower for average annual emissions, between 2–7% lower for 24-hour emissions and 2–12% lower for 3-hour emissions, thereby demonstrating that emissions at OWEF will remain below the applicable SO_2 NAAQS.

4. What is a ''Title I Condition?''

SIP control measures were contained in permits issued to culpable sources in Minnesota until 1990 when EPA determined that limits in state-issued permits are not Federally enforceable because the permits expire. The state then issued permanent Administrative Orders to culpable sources in nonattainment areas from 1991 to February of 1996.

Minnesota's consolidated permitting regulations, approved into the Minnesota SIP on May 2, 1995 (60 FR 21447), include the term ''Title I condition'' which was written, in part, to satisfy EPA requirements that SIP control measures remain permanent. A ''Title I condition'' is defined as ''any condition based on source-specific determination of ambient impacts imposed for the purposes of achieving or maintaining attainment with the national ambient air quality standard and which was part of the state implementation plan approved by EPA or submitted to the EPA pending approval under section 110 of the act * * *.'' The rule also states that ''Title I conditions and the permittee's obligation to comply with them, shall not expire, regardless of the expiration of the other conditions of the permit.'' Further, ''any title I condition shall remain in effect without regard to permit expiration or reissuance, and shall be restated in the reissued permit.''

Minnesota has also initiated using joint Title I/Title V documents as the enforceable document for imposing emission limitations and compliance requirements in SIPs. The SIP requirements in joint Title I/Title V documents submitted by MPCA are cited as ''Title I conditions,'' therefore ensuring that SIP requirements remain permanent and enforceable. EPA reviewed the state's procedure for using joint Title I/Title V documents to implement site-specific SIP requirements and found it to be acceptable under both titles I and V of the Act (July 3, 1997 letter from David Kee, EPA, to Michael J. Sandusky, MPCA). Further, a June 15, 2006, letter from EPA to MPCA clarifies procedures to transfer requirements from Administrative Orders to joint Title I/Title V documents.

II. What Action Is EPA Taking?

EPA is approving into the Minnesota SO_2 SIP certain portions of Minnesota Air Emission Permit No. 10900005–002, issued to OWEF on August 23, 2007.

Specifically, EPA is only approving into the SIP those portions of the joint Title I/Title V document cited as ''Title I condition: State Implementation Plan for SO_2.'' In addition, EPA is removing from the Minnesota SO_2 SIP all other references to Title I conditions for OWEF that are not relevant to attainment of the NAAQS.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective June 22, 2009 without further notice unless we receive relevant adverse written comments by May 21, 2009. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective June 22, 2009.

III. Statutory and Executive Order Reviews

Under the Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** A major rule cannot take effect until 60 days after it is published in the **Federal Register.** This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 22, 2009. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: March 30, 2009.

Walter W. Kovalick Jr.,

Acting Regional Administrator, Region 5.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart Y—Minnesota

■ 2. In § 52.1220 the table in paragraph (d) is amended by revising the entry for ''Olmsted County, Olmsted Waste-to-Energy Facility'' to read as follows:

§ 52.1220 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED MINNESOTA SOURCE-SPECIFIC PERMITS

Name of source	Permit No.	State effective date	EPA approval date	Comments
* * *	*	*	* *	*
Olmsted County, Olmsted Waste-to-Energy Facility	10900005–002	08/23/07	04/21/09, [Insert page number where the document begins].	Only conditions cited as ''Title I condition: SIP for SO_2.''

EPA-APPROVED MINNESOTA SOURCE-SPECIFIC PERMITS—Continued

Name of source	Permit No.	State effective date	EPA approval date	Comments
*	*	*	*	*

* * * * *

[FR Doc. E9–9040 Filed 4–20–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R08–ND–2008–0001; FRL–8892–7]

Approval and Promulgation of Air Quality Implementation Plans; North Dakota; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; Notice of administrative change.

SUMMARY: EPA is updating the materials submitted by North Dakota that are incorporated by reference (IBR) into the State Implementation Plan (SIP). The regulations affected by this update have been previously submitted by the Governor of North Dakota and approved by EPA. This update affects the SIP materials that are available for public inspection at the National Archives and Records Administration (NARA), the Air and Radiation Docket and Information Center located at EPA Headquarters in Washington, DC, and the Regional Office.

DATES: *Effective Date:* This action is effective April 21, 2009.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection Monday through Friday, 8 a.m. to 4 p.m., excluding federal holidays, at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests that, if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to arrange a time to view the hard copy of the North Dakota SIP compilation. An electronic copy of the North Dakota regulations we have approved for incorporation into the SIP are also available by accessing *http://www.epa.gov/region8/air/sip.html.* A hard copy of the regulatory and source-specific portions of the compilation will also be maintained at the Air and Radiation Docket and Information Center, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460 and the National Archives and Records Administration (NARA). If you wish to obtain materials from a docket in the EPA Headquarters Library, please call the Office of Air and Radiation (OAR) Docket/Telephone number (202) 566–1742. For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

FOR FURTHER INFORMATION CONTACT: Amy Platt, EPA Region 8, at (303) 312–6449, or *Platt.Amy@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we'' or ''our'' is used it means the EPA.

I. Background

The SIP is a living document that the State revises as necessary to address its unique air pollution problems. Therefore, EPA, from time to time must take action on SIP revisions containing new and/or revised regulations to make them part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference Federally-approved SIPs, as a result of consultations between EPA and the Office of the Federal Register (OFR). The description of the revised SIP document, IBR procedures and ''Identification of plan'' format are discussed in further detail in the May 22, 1997 **Federal Register**. On March 1, 2007 (72 FR 9263), EPA published a document in the **Federal Register** beginning the new IBR procedure for North Dakota. Today's action is an update to the March 1, 2007 document.

II. EPA Action

In this document, EPA is doing the following: (1) Announcing an update to the IBR material for North Dakota's revisions to its SIP as of March 1, 2009, including revisions that were approved by EPA on July 19, 2007 (72 FR 39564) and May 27, 2008 (73 FR 30308); and (2) Revising the entries in paragraphs 52.1820(b), (c), (d), and (e) to reflect this update.

III. Good Cause Exemption

EPA has determined that today's action falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon a finding of ''good cause,'' authorizes agencies to dispense with public participation, and section 553(d)(3), which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply codifies provisions which are already in effect as a matter of law. Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment is ''unnecessary'' and ''contrary to the public interest'' since the codification only reflects existing law. Likewise, there is no purpose served by delaying the effective date of this action. Immediate notice in the CFR benefits the public by removing outdated citations and incorrect chart entries.

IV. Statutory and Executive Order Review

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as indicated in the **SUPPLEMENTARY INFORMATION** section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA.

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not an economically significant regulatory action based on health or safety risks.

This rule does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rules is discussed in previous actions taken on the State's rules.

B. Submission to Congress and the Comptroller General

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. Today's action simply reformats the codification of provisions which are already in effect as a matter of law. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of April 21, 2009. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This update to the Identification of plan for North Dakota is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the North Dakota SIP compilation had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need to reopen the 60-day period for filing such petitions for judicial review for this reorganization of the ''Identification of plan'' section of 40 CFR 52.1820 for North Dakota.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 31, 2009.

Stephen S. Tuber,

Acting Regional Administrator, Region 8.

Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart JJ—North Dakota

■ 2. Section 52.1820 is amended by revising paragraphs (b), (c), (d), and (e) to read as follows:

§ 52.1820 Identification of plan.

* * * * *

(b) *Incorporation by reference.* (1) Material listed in paragraphs (c), (d), and (e) of this section with an EPA approval date prior to March 1, 2009, was approved for incorporation by reference by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as submitted by the State to EPA, and notice of any change in the material will be published in the **Federal Register**. Entries for paragraphs (c), (d), and (e) of this section with EPA approval dates after March 1, 2009, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 8 certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated state rules/regulations which have been approved as part of the State Implementation Plan as of March 1, 2009.

(3) Copies of the materials incorporated by reference may be inspected at the Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado, 80202–1129; Air and Radiation Docket and Information Center, EPA West Building, 1301 Constitution Ave., NW., Washington, DC 20460; and the National Archives and Records Administration (NARA). If you wish to obtain materials from a docket in the EPA Headquarters Library, please call the Office of Air and Radiation (OAR) Docket/Telephone number (202) 566–1742. For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(c) *EPA approved regulations.*

STATE OF NORTH DAKOTA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date and citation [1]	Explanations
33–15–01 General Provisions				
33–15–01–01	Purpose	10/1/87	5/12/89, 54 FR 20574.	
33–15–01–02	Scope	10/1/87	5/12/89, 54 FR 20574.	
33–15–01–03	Authority	9/1/97	4/2/04, 69 FR 17302.	
33–15–01–04	Definitions	1/1/07	5/27/08, 73 FR 30308.	
33–15–01–05	Abbreviations	1/1/07	5/27/08, 73 FR 30308.	
33–15–01–06	Entry onto premises—Authority	10/1/87	5/12/89, 54 FR 20574.	
33–15–01–07	Variances: Subsection 1 and	10/1/87	5/12/89, 54 FR 20574.	
	Subsection 2	6/1/90	6/26/92, 57 FR 28619.	
33–15–01–08	Circumvention	6/1/90	6/26/92, 57 FR 28619.	
33–15–01–09	Severability	10/1/87	5/12/89, 54 FR 20574.	
33–15–01–10	Land use plans and zoning regulations	10/1/87	5/12/89, 54 FR 20574.	
33–15–01–11	Reserved	10/1/87	5/12/89, 54 FR 20574.	
33–15–01–12	Measurements of emissions of air contaminants.	6/1/01	2/28/03, 68 FR 9565.	
33–15–01–13	Shutdown and malfunction of an installation—Requirements for notification.	10/1/87	5/12/89, 54 FR 20574	Excluding subsection 2(b) which was subsequently revised and approved. See below.
33–15–01–13.2(b)	Malfunctions	9/1/97	8/27/98, 63 FR 45722.	
33–15–01–14	Time schedule for compliance	10/1/87	5/12/89, 54 FR 20574.	
33–15–01–15	Prohibition of air pollution	6/1/01	2/28/03, 68 FR 9565.	
33–15–01–16	Confidentiality of records	10/1/87	5/12/89, 54 FR 20574.	
33–15–01–17	Enforcement	3/1/03	10/21/04, 69 FR 61762.	
33–15–01–18	Compliance certifications	3/1/03	10/21/04, 69 FR 61762.	
33–15–02 Ambient Air Quality Standards				
33–15–02–01	Scope	10/1/87	5/12/89, 54 FR 20574.	
33–15–02–02	Purpose	10/1/87	5/12/89, 54 FR 20574.	
33–15–02–03	Air quality guidelines	10/1/87	5/12/89, 54 FR 20574.	
33–15–02–04	Ambient air quality standards	9/1/98	8/31/99, 64 FR 47395	See additional interpretive materials cited in 64 FR 47395, 8/31/99.
33–15–02–05	Method of sampling and analysis	12/1/94	10/8/96, 61 FR 52865.	
33–15–02–06	Reference conditions	10/1/87	5/12/89, 54 FR 20574.	
33–15–02–07	Concentration of air contaminants in the ambient air restricted.	10/1/87	5/12/89, 54 FR 20574	Excluding subsection 3 and 4 which were subsequently revised and approved. See below.
33–15–02, Table 1	Ambient Air Quality Standards	12/1/94	10/8/96, 61 FR 52865.	
33–15–02–07.3 33–15–02–07.4 and 33–15–02, Table 2.	Concentration of air contaminants in the ambient air restricted and National Ambient Air Quality Standards table.	9/1/98	8/31/99, 64 FR 47395	See additional interpretive materials cited in 64 FR 47395, 8/31/99.
33–15–03 Restrictions of Visible Air Contaminants				
33–15–03–01	Restrictions applicable to existing installations.	10/1/87	5/12/89, 54 FR 20574.	
33–15–03–02	Restrictions applicable to new installations and all incinerators.	10/1/87	5/12/89, 54 FR 20574.	
33–15–03–03	Restrictions applicable to fugitive emissions.	10/1/87	5/12/89, 54 FR 20574.	
33–15–03–03.1	Restrictions applicable to flares	10/1/87	5/12/89, 54 FR 20574.	
33–15–03–04	Exceptions	2/1/82	11/12/82, 47 FR 51131.	
33–15–03–05	Method of measurement	10/1/87	5/12/89, 54 FR 20574.	
33–15–04 Open Burning Restrictions				
33–15–04–01	Refuse burning restrictions	1/1/07	5/27/08, 73 FR 30308.	
33–15–04–02	Permissible open burning	1/1/96	4/21/97, 62 FR 19224	Excluding subsections 1.b, 1.e, 1.g, and 2.k which were subsequently revised and approved. See below.
33–15–04–02.1.b, 33–15–04–02.1.e, 33–15–04–02.1.g, and 33–15–04–02.2.k..	Permissible open burning	1/1/07	5/27/08, 73 FR 30308.	

STATE OF NORTH DAKOTA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date and citation [1]	Explanations
33–15–05 Emissions of Particulate Matter Restricted				
33–15–05–01	Restrictions of emissions of particulate matter from industrial processes.	10/1/87	5/12/89, 54 FR 20574.	
33–15–05–02	Maximum allowable emission of particulate matter from fuel burning equipment used for indirect heating.	3/1/03	10/21/04, 69 FR 61762.	
33–15–05–03	Incinerators (repealed)	8/1/95	4/21/97, 62 FR 19224.	
33–15–05–03.1	Infectious waste incinerators (repealed)	7/12/00	2/28/03, 68 FR 9565.	
33–15–05–03.2	Refuse incinerators	8/1/95	4/21/97, 62 FR 19224.	
33–15–05–03.3	Other waste incinerators	3/1/03	10/21/04, 69 FR 61762.	
33–15–05–04	Methods of measurement	3/1/03	10/21/04, 69 FR 61762.	
33–15–06 Emissions of Sulfur Compounds Restricted				
33–15–06–01	Restrictions of emissions of sulfur dioxide from use of fuel.	3/1/03	10/21/04, 69 FR 61762 ..	See additional interpretive materials cited in 63 FR 45722, 8/27/98.
33–15–06–02	Restriction of emissions of sulfur oxides from industrial processes.	6/1/92	10/20/93, 58 FR 54041.	
33–15–06–03	Methods of measurement	3/1/03	10/21/04, 69 FR 61762.	
33–15–06–04	Continuous emission monitoring requirements.	6/1/92	10/20/93, 58 FR 54041.	
33–15–06–05	Reporting and recordkeeping requirements.	6/1/92	10/20/93, 58 FR 54041.	
33–15–07 Control of Organic Compounds Emissions				
33–15–07–01	Requirements for construction of organic compounds facilities.	6/1/92	8/21/95, 60 FR 43396	Excluding subsection 1 which was subsequently revised and approved. See below.
33–15–07–01.1	Scope	9/1/98	8/31/99, 64 FR 47395.	
33–15–07–02	Requirements for organic compounds gas disposal.	6/1/92	8/21/95, 60 FR 43396.	
33–15–08 Control of Air Pollution from Vehicles and Other Internal Combustion Engines				
33–15–08–01	Internal combustion engine emissions restricted.	7/1/78	11/2/79, 44 FR 63102.	
33–15–08–02	Removal or disabling of motor vehicle pollution control devices prohibited.	7/1/78	11/2/79, 44 FR 63102.	
33–15–10 Control of Pesticides				
33–15–10–01	Pesticide use restricted: Subsection 1 and Subsection 2.	10/1/87	5/12/89, 54 FR 20574.	
	.....	1/1/89	8/9/90, 55 FR 32403.	
33–15–10–02	Restrictions on the disposal of surplus pesticides and empty pesticide containers.	10/1/87	5/12/89, 54 FR 20574	Excluding subsections 2, 3, 4, and 5 which were subsequently revised and approved. See below.
33–15–10–02.2, 33–15–10–02.3, 33–15–10–02.4.	Restrictions on the disposal of surplus pesticides and empty pesticide containers.	1/1/89	8/9/90, 55 FR 32403.	
33–15–10–02.5	Restrictions on the disposal of surplus pesticides and empty pesticide containers.	6/1/90	6/26/92, 57 FR 28619.	
33–15–11 Prevention of Air Pollution Emergency Episodes				
33–15–11–01	Air pollution emergency	10/1/87	5/12/89, 54 FR 20574.	
33–15–11–02	Air pollution episode criteria	10/1/87	5/12/89, 54 FR 20574.	
33–15–11–03	Abatement strategies emission reduction plans.	10/1/87	5/12/89, 54 FR 20574.	
33–15–11–04	Preplanned abatement strategies plans	10/1/87	5/12/89, 54 FR 20574.	
33–15–11—Table 6	Air pollution episode criteria	8/1/95	4/21/97, 62 FR 19224.	
33–15–11—Table 7	Abatement strategies emission reduction plans.	8/1/95	4/21/97, 62 FR 19224.	
33–15–14 Designated Air Contaminant Sources, Permit To Construct, Minor Source Permit To Operate, Title V Permit To Operate				
33–15–14–01	Designated air contaminant sources	8/1/95	4/21/97, 62 FR 19224.	
33–15–14–01.1	Definitions	1/1/96	4/21/97, 62 FR 19224.	

STATE OF NORTH DAKOTA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date and citation [1]	Explanations
33–15–14–02	Permit to construct	3/1/94	8/21/95, 60 FR 43396	Excluding subsections 12, 3.c, 13.b.1, 5, 13.c, 13.i(5), 13.o, and 19 (one sentence) which were subsequently revised and approved. See below. See additional interpretive materials cited in 57 FR 28619, 6/26/92, regarding the State's commitment to meet the requirements of EPA's "Guideline on Air Quality Models (Revised)."
33–15–14–02.12	[Reserved]	8/1/95 & 1/1/96	4/21/97, 62 FR 19224	Moved this section related to fees for Permit to Construct to a new chapter, 33–15–23, Fees.
33–15–14–02.3.c ...	Alterations to a source	9/1/98	8/31/99, 64 FR 47395	See additional interpretive materials cited in 64 FR 47395, 8/31/99.
33–15–14–02.13.b.1.	Exemptions	6/1/01	2/28/03, 68 FR 9565.	
33–15–14–02.5 and 33–15–14–02.13.i(5).	Review of application—Standard for granting permits to construct and Exemptions.	3/1/03	8/8/05, 70 FR 45539.	
33–15–14–02.13.c and 33–15–14–02.13.o.	Exemptions	1/1/07	5/27/08, 73 FR 30308.	
33–15–14–02.19 (one sentence—see explanation).	Amendment of permits	3/1/03	1/24/06, 71 FR 3764	Only one sentence was revised and approved with this action. That sentence reads: "In the event that the modification would be a major modification as defined in chapter 33–15–15, the department shall follow the procedures established in chapter 33–15–15." The remainder of subsection 19 was approved on 8/21/95 (60 FR 43396). See above.
33–15–14–03	Minor source permit to operate	3/1/94	8/21/95, 60 FR 43396	Excluding subsections 10, 1.c, 4, 5.a(1)(d), 11, and 16 (one sentence) which were subsequently revised and approved. See below. Also see 40 CFR 52.1834.
33–15–14–03.10	[Reserved]	8/1/95 & 1/1/96	4/21/97, 62 FR 19224	Moved this section related to fees for Permit to Operate to a new chapter, 33–15–23, Fees.
33–15–14–03.1.c ...	Permit to operate required	6/1/01	2/28/03, 68 FR 9565.	
33–15–14–03.4, 33–15–14–03.5.a(1)(d) & 33–15–14–03.11.	Performance testing, Action on applications, and Performance and emission testing.	3/1/03	8/8/05, 70 FR 45539.	
33–15–14–03.16 (One sentence—see explanation).	Amendment of permits	3/1/03	1/24/06, 71 FR 3764	Only one sentence was revised and approved with this action. That sentence reads: "In the event that the modification would be a major modification as defined in chapter 33–15–15, the department shall follow the procedures established in chapter 33–15–15." The remainder of subsection 16 was approved on 8/21/95 (60 FR 43396). See above.
33–15–14–04	Permit fees (repealed)	3/1/94	8/21/95, 60 FR 43396.	
33–15–14–05	Common provisions applicable to both permit to construct and permit to operate (repealed).	3/1/94	8/21/95, 60 FR 43396.	
33–15–14–07	Source exclusions from title V permit to operate requirements.	6/1/01	2/28/03, 68 FR 9565.	

STATE OF NORTH DAKOTA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date and citation [1]	Explanations
33–15–15 Prevention of Significant Deterioration of Air Quality				
33–15–15–01	General provisions (repealed)	2/1/05	7/19/07, 72 FR 39564	See additional interpretive materials cited in 56 FR 12848, 3/28/91, regarding NOx increments and in 57 FR 28619, 6/26/92, regarding the State's commitment to meet the requirements of EPA's ''Guideline on Air Quality Models (Revised).'' Also see 40 CFR 52.1829.
33–15–15–01.1	Purpose	2/1/05	7/19/07, 72 FR 39564.	
33–15–15–01.2	Scope	2/1/05	7/19/07, 72 FR 39564.	
33–15–15–02	Reclassification	2/1/05	7/19/07, 72 FR 39564.	
33–15–17 Restriction of Fugitive Emissions				
33–15–17–01	General provisions—Applicability and designation of affected facilities.	6/1/01	2/28/03, 68 FR 9565.	
33–15–17–02	Restriction of fugitive particulate emissions.	1/1/07	5/27/08, 73 FR 30308.	
33–15–17–03	Reasonable precautions for abating and preventing fugitive particulate emissions.	6/20/78	11/2/79, 44 FR 63102.	
33–15–17–04	Restriction of fugitive gaseous emissions.	6/20/78	11/2/79, 44 FR 63102.	
33–15–18 Stack Heights				
33–15–18–01	General provisions	10/1/87	11/14/88, 53 FR 45763.	
33–15–18–02	Good engineering practice demonstrations.	10/1/87	11/14/88, 53 FR 45763.	
33–15–18–03	Exemptions	10/1/87	11/14/88, 53 FR 45763.	
33–15–19 Visibility Protection				
33–15–19–01	General provisions	10/1/87	9/28/88, 53 FR 37757.	
33–15–19–02	Review of new major stationary sources and major modifications.	10/1/87	9/28/88, 53 FR 37757.	
33–15–19–03	Visibility monitoring	10/1/87	9/28/88, 53 FR 37757.	
33–15–20 Control of Emissions from Oil and Gas Well Production Facilities				
33–15–20–01	General provisions	6/1/92	8/21/95, 60 FR 43396.	
33–15–20–02	Registration and reporting requirements	6/1/92	8/21/95, 60 FR 43396.	
33–15–20–03	Prevention of significant deterioration applicability and source information requirements.	6/1/92	8/21/95, 60 FR 43396.	
33–15–20–04	Requirements for control of production facility emissions.	6/1/90	6/26/92, 57 FR 28619.	
33–15–23 Fees				
33–15–23–01	Definitions	8/1/95	4/21/97, 62 FR 19224.	
33–15–23–02	Permit to construct fees	8/1/95	4/21/97, 62 FR 19224.	
33–15–23–03	Minor source permit to operate fees	8/1/95	4/21/97, 62 FR 19224.	

[1] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

(d) *EPA-approved source-specific requirements.*

Name of source	Nature of requirement	State effective date	EPA approval date and citation [2]	Explanations
Leland Olds Station Units 1 & 2 ..... Milton R. Young Unit 1 Heskett Station Units 1 & 2 Stanton Station Unit 1 American Crystal Sugar at Drayton	SIP Chapter 8, Section 8.3, Continuous Emission Monitoring Requirements for Existing Stationary Sources, including amendments to Permits to Operate and Department Order	5/6/77	10/17/77, 42 FR 55471.	
Tesoro Mandan Refinery	SIP Chapter 8, Section 8.3.1, Continuous Opacity Monitoring for Fluid Bed Catalytic Cracking Units: Tesoro Refining and Marketing Co., Mandan Refinery.	2/27/07	5/27/08, 73 FR 30308.	

[2] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

(e) *EPA-approved nonregulatory provisions*

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/Adopted date	EPA approval date and citation [3]	Explanations
(1) Implementation Plan for the Control of Air Pollution for the State of North Dakota.	Statewide	Submitted: 1/24/72; Adopted: 1/24/72; Clarification submitted: 6/14/73, 2/19/74, 6/26/74, 11/21/74, 4/23/75.	5/31/72, 37 FR 10842; with all clarifications on 3/2/76, 41 FR 8956.	Excluding subsequent revisions, as follows: Chapters 6, 11, and 12 and Sections 2.11, 3.2.1, 3.7, 5.2.1, 6.10, 6.11, 6.13, 8.3, and 8.3.1. Revisions to these non-regulatory provisions have subsequently been approved. See below.
Chapters:				
1. Introduction				
2. Legal Authority				
3. Control Strategy				
4. Compliance Schedule				
5. Prevention of Air Pollution Emergency Episodes				
7. Review of New Sources and Modifications				
8. Source Surveillance				
9. Resources				
10. Inter-governmental Cooperation				
11. Rules and Regulations				
With subsequent revisions to the chapters as follows:				
(2) Revisions to SIP Chapter 8, Section 8.3.	.....	Submitted: 5/26/77	10/17/77, 42 FR 55471.	
(3) Revisions to SIP Chapter 2, Section 2.11.	.....	Submitted: 1/17/80	8/12/80, 45 FR 53475.	
(4) SIP Chapter 6, Air Quality Surveillance.	.....	Submitted: 1/17/80	8/12/80, 45 FR 53475.	
(5) Revisions to SIP Chapter 6, Section 6.10.	.....	Submitted: 1/26/88	9/28/88, 53 FR 37757.	
(6) Revisions to SIP Chapter 3, Section 3.7.	.....	Submitted: 4/18/89	10/5/89, 54 FR 41094.	
(7) Revisions to SIP Chapter 3, Section 3.2.1.	.....	Submitted: 4/18/89	8/9/90, 55 FR 32403.	
(8) Revisions to SIP Chapter 5, Section 5.2.1.	.....	Submitted: 4/18/89	8/9/90, 55FR 32403.	
(9) Revisions to SIP Chapter 6, Section 6.11.	.....	Submitted: 4/18/89	8/9/90, 55 FR 32403.	
(10) Revisions to SIP Chapter 6, Section 6.13.	.....	Submitted: 1/9/96 ..	4/21/97, 62 FR 19224.	
(11) Revisions to Chapter 11, Rules & Regulations.	.....	.....	.....	See the table listed above under § 52.1820(c)(1) for most current version of EPA-approved North Dakota regulations.

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/Adopted date	EPA approval date and citation [3]	Explanations
(12) SIP to meet Air Quality Monitoring 40 CFR part 58, subpart c, paragraph 58.20 and public notification required under section 127 of the Clean Air Act.	Statewide	Submitted: 1/17/80	8/12/80, 45 FR 53475.	
(13) Stack Height Demonstration Analysis.	Statewide	Submitted: 4/18/86 and 7/21/87.	6/7/89, 54 FR 24334.	
(14) Visibility New Source Review and Visibility Monitoring.	Statewide	Submitted: 1/26/88	9/28/88, 53 FR 37757.	
(15) Commitment to revise stack height rules in response to NRDC v. Thomas, 838 F.2d 1224 (DC Cir. 1988).	Statewide	Submitted: 5/11/88	11/14/88, 53 FR 45763.	See also 40 CFR 52.1832.
(16) Visibility General Plan and Long-term Strategy.	Statewide	Submitted: 4/18/89	10/5/89, 54 FR 41094.	See also 40 CFR 52.1831.
(17) Group III PM10 SIP	Statewide	Submitted: 4/18/89	8/9/90, 55 FR 32403.	See additional interpretive materials cited in 55 FR 32403, 8/9/90.
(18) Commitment to meet all requirements of EPA's Guideline on Air Quality Models (revised) for air quality modeling demonstrations associated with the permitting of new PSD sources, PSD major modifications, and sources to be located in nonattainment areas.	Statewide	Submitted: 2/14/92	6/26/92, 57 FR 28619.	See additional interpretive materials cited in 57 FR 28619, 6/26/92. Also see 40 CFR 52.1824.
(19) Small Business Assistance Program (SIP Chapter 12).	Statewide	Submitted: 11/2/92 and 1/18/93.	1/11/94, 59 FR 1485.	See additional interpretive materials cited in 59 FR 1485, 1/11/94.
(20) Revisions to SIP Chapter 8, Section 8.3.1.	.....	Submitted: 3/8/07	5/27/08, 73 FR 30308.	

[3] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

[FR Doc. E9–9020 Filed 4–20–09; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2008–0863; FRL–8784–2]

Revisions to the California State Implementation Plan, Approval of the Ventura County Air Pollution Control District—Reasonably Available Control Technology Analysis

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing approval of revisions to the Ventura County Air Pollution Control District portion of the California State Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on December 12, 2008 and concern the District's analysis of whether its rules met reasonably available control technology (RACT) under the 8-hour ozone National Ambient Air Quality Standards (NAAQS). We are approving the analysis under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: *Effective Date:* This rule is effective on May 21, 2009.

ADDRESSES: EPA has established docket number EPA–R09–OAR–2008–0863 for this action. The index to the docket is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available in either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Stanley Tong, EPA Region IX, (415) 947–4122, *tong.stanley@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

Table of Contents

I. Proposed Action

On December 12, 2008 (73 FR 75626), EPA proposed to approve the following document into the California SIP.

Local agency	Document	Adopted	Submitted
VCAPCD	2006 Reasonably Available Control Technology Analysis	06/27/06	01/31/07

We proposed to approve this analysis and certification because we determined that they complied with the relevant CAA requirements. Our proposed action contains more information on the submitted RACT analysis and our evaluation.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, no comments were received.

III. EPA Action

No comments were submitted that change our assessment that the submitted RACT analysis complies with the relevant CAA requirements under the 8-hour ozone NAAQS. Therefore, as authorized in section 110(k)(3) of the Act, EPA is fully approving this document into the California SIP.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 22, 2009. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 5, 2009.

Jane Diamond,

Acting Regional Administrator, Region IX.

■ Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(358)(i)(B) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(358) * * *

(i) * * *

(B) Ventura County Air Pollution Control District.

(*1*) Ventura County Air Pollution Control Board Resolution approving and adopting the 2006 Reasonably Available Control Technology State Implementation Plan Revision, dated June 27, 2006.

(*2*) Final Ventura County Air Pollution Control District 2006 Reasonably Available Control Technology (RACT) State Implementation Plan (SIP) Revision, including Tables A–1, A–2, B, C, and D, dated June 27, 2006.

* * * * *

[FR Doc. E9–9021 Filed 4–20–09; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2008–0020; Internal Agency Docket No. FEMA–8071]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of

noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et seq.,* unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register.**

In addition, FEMA has identified the Special Flood Hazard Areas (SFHAs) in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year, on FEMA's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

■ Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region III				
Virginia: Amelia County, Unincorporated Areas.	510314	March 22, 1976, Emerg; September 1, 1987, Reg; April 21, 2009, Susp.	April 16, 2009 ...	April 21, 2009.
Region IV				
Florida: Gulf County, Unincorporated Areas	120098	August 7, 1975, Emerg; June 15, 1983, Reg; April 21, 2009, Susp.	.....do*	Do.
Region V				
Ohio:				

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Delaware, City of, Delaware County	390148	January 31, 1975, Emerg; November 2, 1983, Reg; April 21, 2009, Susp.	.....do	Do.
Delaware County, Unincorporated Areas.	390146	February 16, 1977, Emerg; October 18, 1983, Reg; April 21, 2009, Susp.	.....do	Do.
Powell, Village of, Delaware County	390626	July 8, 1975, Emerg; March 4, 1985, Reg; April 21, 2009, Susp.	.....do	Do.
Sunbury, Village of, Delaware County ..	390152	June 18, 1975, Emerg; September 1, 1987, Reg; April 21, 2009, Susp.	.....do	Do.
Region VIII				
North Dakota:				
Belmont, Township of, Trail County	380653	July 12, 1982, Emerg; August 5, 1986, Reg; April 21, 2009, Susp.	.....do	Do.
Benson County, Unincorporated Areas	380682	January 31, 1995, Emerg; May 2, 1995, Reg; April 21, 2009, Susp.	.....do	Do.
Bingham, Township of, Trail County	380640	February 8, 1980, Emerg; August 5, 1986, Reg; April 21, 2009, Susp.	.....do	Do.
Buxton, Township of, Trail County	380676	April 9, 1984, Emerg; March 12, 1986, Reg; April 21, 2009, Susp.	.....do	Do.
Caledonia, Township of, Trail County ...	380638	January 3, 1980, Emerg; August 5, 1986, Reg; April 21, 2009, Susp.	.....do	Do.
Eldorado, Township of, Trail County	380645	April 25, 1980, Emerg; August 19, 1986, Reg; April 21, 2009, Susp.	.....do	Do.
Elm River, Township of, Trail County ...	380636	September 13, 1979, Emerg; August 5, 1986, Reg; April 21, 2009, Susp.	.....do	Do.
Garfield, Township of, Trail County	380669	April 5, 1983, Emerg; December 11, 1985, Reg; April 21, 2009, Susp.	.....do	Do.
Herberg, Township of, Trail County	380621	September 25, 1978, Emerg; August 5, 1986, Reg; April 21, 2009, Susp.	.....do	Do.
Hillsboro, City of, Trail County	380132	March 3, 1975, Emerg; September 27, 1985, Reg; April 21, 2009, Susp.	.....do	Do.
Kelso, Township of, Trail County	380644	April 11, 1980, Emerg; August 5, 1986, Reg; April 21, 2009, Susp.	.....do	Do.
Lindaas, Township of, Trail County	380300	April 11, 1980, Emerg; September 29, 1986, Reg; April 21, 2009, Susp.	.....do	Do.
Mayville, City of, Trail County	380133	March 21, 1975, Emerg; July 19, 1982, Reg; April 21, 2009, Susp.	.....do	Do.
Mayville, Township of, Trail County	380301	November 23, 1979, Emerg; September 29, 1986, Reg; April 21, 2009, Susp.	.....do	Do.
Minnewaukan, City of, Benson County	380240	April 24, 1995, Emerg; May 4, 1998, Reg; April 21, 2009, Susp.	.....do	Do.
Norman, Township of, Trail County	380670	April 5, 1983, Emerg; March 12, 1986, Reg; April 21, 2009, Susp.	.....do	Do.
Norway, Township of, Trail County	380643	March 24, 1980, Emerg; August 5, 1986, Reg; April 21, 2009, Susp.	.....do	Do.
Portland, City of, Trail County	380134	October 14, 1975, Emerg; July 19, 1982, Reg; April 21, 2009, Susp.	.....do	Do.
Roseville, Township of, Trail County	380641	February 21, 1980, Emerg; September 29, 1986, Reg; April 21, 2009, Susp.	.....do	Do.
Spirit Lake Tribe, Benson County	380700	August 19, 1997, Emerg; May 4, 1998, Reg; April 21, 2009, Susp.	.....do	Do.
Stavanger, Township of, Trail County ...	380642	February 29, 1980, Emerg; August 5, 1986, Reg; April 21, 2009, Susp.	.....do	Do.
Trail County, Unincorporated Areas	380130	June 30, 1997, Emerg; May 4, 1998, Reg; April 21, 2009, Susp.	.....do	Do.
Viking, Township of, Trail County	380322	March 30, 1978, Emerg; September 4, 1986, Reg; April 21, 2009, Susp.	.....do	Do.
South Dakota: Sturgis, City of, Meade County.	460055	February 9, 1973, Emerg; June 1, 1977, Reg; April 21, 2009, Susp.	.....do	Do.
Region IX				
California: Sonora, City of, Tuolumne County.	060412	February 13, 1976, Emerg; May 25, 1978, Reg; April 21, 2009, Susp.	.....do	Do.

*do = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: April 9, 2009.

Michael K. Buckley,

Acting Assistant Administrator, Mitigation Directorate, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. E9–9070 Filed 4–20–09; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 65

[Docket ID FEMA–2008–0020; Internal Agency Docket No. FEMA–B–1046]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the Base (1% annual-chance) Flood Elevations (BFEs) is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified BFEs for new buildings and their contents.

DATES: These modified BFEs are currently in effect on the dates listed in the table below and revise the Flood Insurance Rate Maps (FIRMs) in effect prior to this determination for the listed communities.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Mitigation Assistant Administrator of FEMA reconsider the changes. The modified BFEs may be changed during the 90-day period.

ADDRESSES: The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton Jr., Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: The modified BFEs are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection is provided.

Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by the other Federal, State, or regional entities. The changes in BFEs are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This interim rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This interim rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This interim rule involves no policies that have federalism implications under Executive Order 13132, Federalism.

Executive Order 12988, Civil Justice Reform. This interim rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

■ 1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

■ 2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Alabama: Autauga ...	City of Prattville (07–04–6309P).	February 28, 2009; March 7, 2009; *Prattville Progress.*	The Honorable Jim Byard, Jr., Mayor, City of Prattville, 101 West Main Street, Prattville, AL 36067.	February 20, 2009	010002
Arizona:					
Coconino	Unincorporated areas of Coconino County (08–09–1418P).	February 20, 2009; February 27, 2009; *Arizona Daily Sun.*	The Honorable Deb Hill, Chairman, Coconino County Board of Supervisors, 219 East Cherry Avenue, Flagstaff, AZ 86001.	June 29, 2009	040019
Maricopa	City of Avondale (08–09–0655P).	March 5, 2009; March 12, 2009; *Arizona Business Gazette.*	The Honorable Marie Lopez, Mayor, City of Avondale, 11465 West Civic Center Drive, Suite 280, Avondale, AZ 85323.	July 10, 2009	040038
Maricopa	Unincorporated areas of Maricopa County (08–09–0655P).	March 5, 2009; March 12, 2009; *Arizona Business Gazette.*	The Honorable Andrew Kunasek, Chairman, Maricopa County Board of Supervisors, 301 West Jefferson Street, 10th Floor, Phoenix, AZ 85003.	July 10, 2009	040037

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Maricopa	City of Peoria (08–09–1474P).	January 22, 2009; January 29, 2009; *Arizona Business Gazette*.	The Honorable Bob Barrett, Mayor, City of Peoria, City of Peoria Municipal Complex, 8401 West Monroe Street, Peoria, AZ 85345.	January 12, 2009	040050
Maricopa	City of Tolleson (08–09–0655P).	March 5, 2009; March 12, 2009; *Arizona Business Gazette*.	The Honorable Adolfo F. Gámez, Mayor, City of Tolleson, 9555 West Van Buren Street, Tolleson, AZ 85353.	July 10, 2009	040055
California: San Diego.	City of National City (08–09–1802P).	March 3, 2009; March 10, 2009; *San Diego Union Tribune*.	The Honorable Ron Morrison, Mayor, National City, 1243 National City Boulevard, National City, CA 91950.	July 8, 2009	060293
Colorado: Jefferson	City of Golden (09–08–0184P).	March 5, 2009; March 12, 2009; *Golden Transcript*.	The Honorable Jacob Smith, Mayor, City of Golden, 911 10th Street, Golden, CO 80401.	February 27, 2009	080090
Florida: Seminole	Unincorporated areas of Seminole County (08–04–6702P).	March 6, 2009; March 13, 2009; *Orlando Sentinel*.	The Honorable Bob Dallari, Chairman, Seminole County Board of Commissioners, 1101 East First Street, Sanford, FL 32771.	February 25, 2009	120289
Georgia:					
Columbia	Unincorporated areas of Columbia County (07–04–4253P).	March 1, 2009; March 8, 2009; *Columbia County News Times*.	The Honorable Ron C. Cross, Chairman, Columbia County Board of Commissioners, P.O. Box 498, Evans, GA 30809.	July 6, 2009	130059
Henry	Unincorporated areas of Henry County (08–04–5164P).	March 13, 2009; March 20, 2009; *Daily Herald*.	The Honorable Elizabeth "BJ" Mathis, Chairperson, Board of Commissioners, Henry County, 140 Henry Parkway, McDonough, GA 30253.	July 20, 2009	130468
Idaho:					
Blaine	Unincorporated areas of Blaine County (09–10–0141P).	March 11, 2009; March 18, 2009; *Idaho Mountain Express*.	The Honorable Tom Bowman, Chairman, Blaine County Board of Commissioners, 206 First Avenue South, Suite 300, Hailey, ID 83333.	February 27, 2009	165167
Blaine	City of Hailey (09–10–0141P).	March 11, 2009; March 18, 2009; *Idaho Mountain Express*.	The Honorable Rick Davis, Mayor, City of Hailey, 115 Main Street South, Suite H, Hailey, ID 83333.	February 27, 2009	160022
Kentucky: Lexington-Fayette Urban County Government.	Lexington-Fayette Urban County Government (08–04–5296P).	December 12, 2008; December 19, 2008; *Lexington Herald Leader*.	The Honorable Jim Newberry, Mayor, Lexington-Fayette, Urban County Government, 200 East Main Street, 12th Floor, Lexington, KY 40507.	November 28, 2008	210067
Louisiana:					
East Baton Rouge.	Unincorporated areas of East Baton Rouge Parish (08–06–2569P).	February 11, 2009; February 18, 2009; *The Advocate*.	The Honorable Melvin Holden, Mayor, East Baton Rouge Parish, 222 Saint Louis Street, Third Floor, Baton Rouge, LA 70802.	June 18, 2009	220058
East Baton Rouge.	City of Zachary (08–06–2569P).	February 12, 2009; February 19, 2009; *Zachary Plainsman*.	The Honorable Henry J. Martinez, Mayor, City of Zachary, 4700 Main Street, Zachary, LA 70791.	June 18, 2009	220061
New Hampshire: Grafton.	Town of Waterville Valley (08–01–0905P).	September 4, 2008; September 11, 2008; *Record Enterprise*.	The Honorable Dave Jenkins, Chair, Board of Selectmen, Town of Waterville Valley, Town Office, P.O. Box 500, Waterville Valley, NH 03215.	January 9, 2009	330077
North Carolina: Guilford.	City of Greensboro (09–04–0087P).	March 6, 2009; March 13, 2009; *Greensboro News & Record*.	The Honorable Yvonne J. Johnson, Mayor, City of Greensboro, P.O. Box 3136, Greensboro, NC 27402–3136.	July 13, 2009	375351
South Carolina: Jasper.	Unincorporated areas of Jasper County (08–04–5295P).	March 4, 2009; March 11, 2009; *Jasper County Sun*.	The Honorable Dr. George Hood, Chairman, Jasper County Council, P.O. Box 1149, Ridgeland, SC 29936.	July 9, 2009	450112
Texas:					
Bexar	Unincorporated areas of Bexar County (09–06–0762P).	March 6, 2009; March 13, 2009; *Daily Commercial Recorder*.	The Honorable Nelson W. Wolff, Bexar County Judge, 100 Dolorosa Street, Suite 120, San Antonio, TX 78205.	July 13, 2009	480035
Denton	Town of Copper Canyon (09–06–0214P).	March 2, 2009; March 9, 2009; *Denton Record Chronicle*.	The Honorable Sue Tejml, Mayor, Town of Copper Canyon, 400 Woodland Drive, Copper Canyon, TX 75077.	February 25, 2009	481508
Virginia:					
Fauquier	Unincorporated areas of Fauquier County (08–03–1792P).	March 5, 2009; March 12, 2009; *Fauquier Times Democrat*.	The Honorable R. Holder Trumbo, Jr., Chairman, Board of Supervisors, 10 Hotel Street, Suite 208, Warrenton, VA 20186.	July 10, 2009	510055
Henrico	Unincorporated areas of Henrico County (09–03–0224P).	March 12, 2009; March 19, 2009; *Richmond Times Dispatch*.	The Honorable David A. Kaechele, Chairman, Board of Supervisors, Henrico County, P.O. Box 90775, Henrico, VA 23273.	July 17, 2009	510077
Wisconsin: Dane	City of Sun Prairie (08–05–1760P).	March 12, 2009; March 19, 2009; *The Star*.	The Honorable Joe Chase, Mayor, City of Sun Prairie, 300 East Main Street, Sun Prairie, WI 53590.	February 27, 2009	550573

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance'')

Dated: April 10, 2009.

Michael K. Buckley,

Acting Assistant Administrator, Mitigation Directorate, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. E9–9063 Filed 4–20–09; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 65

[Docket ID FEMA–2008–0020]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Modified Base (1% annual-chance) Flood Elevations (BFEs) are finalized for the communities listed below. These modified BFEs will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective dates for these modified BFEs are indicated on the following table and revise the Flood Insurance Rate Maps (FIRMs) in effect for the listed communities prior to this date.

ADDRESSES: The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton Jr., Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below of the modified BFEs for each community listed. These modified BFEs have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of FEMA resolved any appeals resulting from this notification.

The modified BFEs are not listed for each community in this notice. However, this final rule includes the address of the Chief Executive Officer of the community where the modified BFEs determinations are available for inspection.

The modified BFEs are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified BFEs are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings. The changes in BFEs are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This final rule involves no policies that have federalism implications under Executive Order 13132, Federalism.

Executive Order 12988, Civil Justice Reform. This final rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

■ 1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

■ 2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Alabama: Tuscaloosa (FEMA Docket No: B–1019).	Unincorporated areas of Tuscaloosa County (08–04–3997P).	October 15, 2008; October 22, 2008; *The Northport Gazette.*	The Honorable W. Hardy McCollum, Tuscaloosa County Probate Judge, 714 Greensboro Avenue, Tuscaloosa, AL 35401.	February 19, 2009	010201
Arizona:					
Maricopa (FEMA Docket No: B–1019).	City of El Mirage (08–09–1516P).	October 16, 2008; October 23, 2008; *Arizona Business Gazette.*	The Honorable Fred Waterman, Mayor, City of El Mirage, P.O. Box 26, El Mirage, AZ 85335.	February 20, 2009	040041
Maricopa (FEMA Docket No: B–1019).	Unincorporated areas of Maricopa County (08–09–1516P).	October 16, 2008; October 23, 2008; *Arizona Business Gazette.*	The Honorable Andrew W. Kunasek, Chairman, Maricopa County Board of Supervisors, 301 West Jefferson Street, 10th Floor, Phoenix, AZ 85003.	February 20, 2009	040037

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Maricopa (FEMA Docket No: B–1019).	City of Surprise (08–09–1516P).	October 16, 2008; October 23, 2008; *Arizona Business Gazette*.	The Honorable Lyn Truitt, Mayor, City of Surprise, 12425 West Bell Road, Surprise, AZ 85374.	February 20, 2009	040053
Pinal (FEMA Docket No: B–1023).	City of Maricopa (07–09–1819P).	October 26, 2008; November 2, 2008; *Casa Grande Dispatch*.	The Honorable Anthony Smith, Major, City of Maricopa, P.O. Box 610, Maricopa, AZ 85239.	March 3, 2009	040052
Pinal (FEMA Docket No: B–1023).	Unincorporated areas of Pinal County (07–09–1819P).	October 26, 2008; November 2, 2008; *Casa Grande Dispatch*.	The Honorable Lionel D. Ruiz, Chairman, Pinal County Board of Supervisors, P.O. Box 827, Florence, AZ 85232.	March 3, 2009	040077
Arkansas: Pulaski (FEMA Docket No: B–1019).	City of Little Rock (08–06–2112P).	November 4, 2008; November 11, 2008; *Arkansas Democrat Gazette*.	The Honorable Mark Stodola, Mayor, City of Little Rock, 500 West Markham Street, Suite 203, Little Rock, AR 72201.	October 29, 2008	050181
California: Santa Barbara (FEMA Docket No: B–1027).	Unincorporated areas of Santa Barbara County (08–09–0425P).	October 24, 2008; October 31, 2008; *Santa Barbara News Press*.	The Honorable Salud Carbajal, Chairman, Santa Barbara County Board of Supervisors, 105 East Anapamu Street, Santa Barbara, CA 93101.	March 2, 2009	060331
Colorado:					
Douglas (FEMA Docket No: B–1023).	Town of Parker (08–08–0810P).	October 30, 2008; November 6, 2008; *Douglas County News Press*.	The Honorable David Casiano, Mayor, Town of Parker, 20120 East Main Street, Parker, CO 80138–7334.	March 6, 2009	080310
Mesa (FEMA Docket No: B–1027).	City of Fruita (08–08–0501P).	November 14, 2008; November 21, 2008; *The Daily Sentinel*.	The Honorable Ken Henry, Mayor, City of Fruita, 325 East Aspen Avenue, Fruita, CO 81521.	October 31, 2008	080194
Mesa (FEMA Docket No: B–1027).	Unincorporated areas of Mesa County (08–08–0501P).	November 14, 2008; November 21, 2008; *The Daily Sentinel*.	The Honorable Craig J. Meis, Commissioner, District 1, Mesa County Board of Commissioners, P.O. Box 20000, Grand Junction, CO 81502.	October 31, 2008	080115
Connecticut: New Haven (FEMA Docket No: B–1023).	Town of Branford (08–01–1042P).	November 13, 2008; November 20, 2008; *The Sound*.	The Honorable Anthony DaRos, First Selectman, Town of Branford, 1019 Main Street, Branford, CT 06405.	October 31, 2008	090073
Delaware:					
Kent (FEMA Docket No: B–1019).	Unincorporated areas of Kent County (08–03–1557P).	October 17, 2008; October 24, 2008; *The News Journal*.	The Honorable P. Brooks Banta, President, Board of Commissioners, 555 Bay Road, Dover, DE 19901.	February 23, 2009	100001
New Castle (FEMA Docket No: B–1023).	Unincorporated areas of New Castle County (08–03–0143P).	November 12, 2008; November 19, 2008; *The News Journal*.	The Honorable Christopher Coons, County Executive, New Castle County, 87 Read's Way, New Castle, DE 19720.	October 31, 2008	105085
New Castle (FEMA Docket No: B–1023).	City of Wilmington (08–03–0143P).	November 12, 2008; November 19, 2008; *The News Journal*.	The Honorable James M. Baker, Mayor, City of Wilmington, 800 North French Street, Wilmington, DE 19801.	October 31, 2008	100028
Florida:					
Bay (FEMA Docket No: B–1023).	Unincorporated areas of Bay County (08–04–2649P).	October 31, 2008; November 7, 2008; *The News Herald*.	The Honorable Jerry L. Girvin, Chairman, Bay County Board of Commissioners, 810 West Eleventh Street, Panama City, FL 32401.	March 9, 2009	120004
Bay (FEMA Docket No: B–1023).	City of Panama City Beach (08–04–2649P).	October 31, 2008; November 7, 2008; *The News Herald*.	The Honorable Gayle Oberst, Mayor, City of Panama City Beach, 110 South Arnold Road, Panama City Beach, FL 32413.	March 9, 2009	120013
Polk (FEMA Docket No: B–1019).	City of Lakeland (08–04–5418P).	October 10, 2008; October 17, 2008; *The Ledger*.	The Honorable Ralph L. Fletcher, Mayor, City of Lakeland, 228 South Massachusetts Avenue, Lakeland, FL 33801.	February 16, 2009	120267
Georgia: Columbia (FEMA Docket No: B–1019).	Unincorporated areas of Columbia County (08–04–3896P).	October 19, 2008; October 26, 2008; *The Columbia County News Times*.	The Honorable Ron C. Cross, Chairman, Columbia County Board of Commissioners, P.O. Box 498, Evans, GA 30809.	February 23, 2009	130059
Kansas:					
Reno (FEMA Docket No: B–1027).	City of Hutchinson (08–07–0175P).	November 12, 2008; November 19, 2008; *The Hutchinson News*.	The Honorable Trish Rose, Mayor, City of Hutchinson, P.O. Box 1567, Hutchinson, KS 67504.	October 31, 2008	200283
Reno (FEMA Docket No: B–1027).	Unincorporated areas of Reno County (08–07–0175P).	November 12, 2008; November 19, 2008; *The Hutchinson News*.	Mr. Larry Sharp, Chair, Reno County Commission, Reno County Courthouse, 206 West First Avenue, Hutchinson, KS 67501.	October 31, 2008	200567
Minnesota: Olmsted (FEMA Docket No: B–1023).	City of Oronoco (08–05–3390P).	November 12, 2008; November 19, 2008; *The News Record*.	The Honorable Scott Keigley, Mayor, City of Oronoco, P.O. Box 195, Oronoco, MN 55960.	October 31, 2008	270330
Missouri: Platte (FEMA Docket No: B–1019).	Unincorporated areas of Platte County (08–07–1586P).	October 15, 2008; October 22, 2008; *The Landmark*.	Mr. Tom Pryor, First District Commissioner, Platte County, Platte County Administrative Building, 415 Third Street, Suite 105, Platte City, MO 64079.	February 19, 2009	290475
Nevada: Elko (FEMA Docket No: B–1023).	City of Elko (08–09–0345P).	October 24, 2008; October 31, 2008; *Elko Daily Free Press*.	The Honorable Michael J. Franzoia, Mayor, City of Elko, 1751 College Avenue, Elko, NV 89801.	March 2, 2009	320010

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
South Carolina:					
Lexington (FEMA Docket No: B–1023).	Unincorporated areas of Lexington County (08–04–1961P).	October 29, 2008; November 5, 2008; *The State*.	The Honorable William C. Derrik, Chairman, Lexington County Council, 2241 Ridge Road, Leesville, SC 29070.	March 5, 2009	450129
Richland (FEMA Docket No: B–1019).	Unincorporated areas of Richland County (08–04–5022P).	October 10, 2008; October 17, 2008; *The State*.	The Honorable Joseph McEachern, Chairman, Richland County Council, Richland County Administrative Building, 2020 Hampton Street, Second Floor, Columbia, SC 29202.	February 16, 2009	450170
Tennessee:					
Williamson (FEMA Docket No: B–1019).	City of Brentwood (08–04–2646P).	October 16, 2008; October 23, 2008; *The Tennessean*.	The Honorable Joe Reagan, Mayor, City of Brentwood, P.O. Box 788, Brentwood, TN 37024.	February 20, 2009	470205
Williamson (FEMA Docket No: B–1019).	Unincorporated areas of Williamson County (08–04–2646P).	October 16, 2008; October 23, 2008; *The Tennessean*.	The Honorable Rogers C. Anderson, Mayor, Williamson County, 1320 West Main Street, Suite 125, Franklin, TN 37064.	February 20, 2009	470204
Texas:					
Bell (FEMA Docket No: B–1023).	City of Killeen (07–06–1831P).	October 30, 2008; November 6, 2008; *Killeen Daily Herald*.	The Honorable Timothy L. Hancock, Mayor, City of Killeen, P.O. Box 1329, Killeen, TX 76540.	March 6, 2009	480031
Bexar (FEMA Docket No: B–1023).	Unincorporated areas of Bexar County (07–06–2018P).	October 31, 2008; November 7, 2008; *San Antonio Express News*.	The Honorable Nelson W. Wolff, Bexar County Judge, 100 Dolorosa Street, Suite 120, San Antonio, TX 78205.	March 9, 2009	480035
Bexar (FEMA Docket No: B–1023).	City of San Antonio (07–06–2018P).	October 31, 2008; November 7, 2008; *San Antonio Express News*.	The Honorable Phil Hardberger, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	March 9, 2009	480045
Tarrant (FEMA Docket No: B–1019).	City of Fort Worth (08–06–2295P).	October 9, 2008; October 16, 2008; *Fort Worth Star Telegram*.	The Honorable Mike Moncrief, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102.	February 13, 2009	480596
Tarrant (FEMA Docket No: B–1019).	City of Keller (08–06–2436P).	October 9, 2008; October 16, 2008; *Fort Worth Star Telegram*.	The Honorable Pat McGrail, Mayor, City of Keller, P.O. Box 770, Keller, TX 76244.	February 13, 2009	480602
Travis (FEMA Docket No: B–1023).	City of Austin (08–06–2992P).	November 12, 2008; November 19, 2008; *Austin American Statesman*.	The Honorable Will Wynn, Mayor, City of Austin, P.O. Box 1088, Austin, TX 78767.	October 31, 2008	480624
Wisconsin:					
Juneau (FEMA Docket No: B–1027).	Unincorporated areas of Juneau County (08–05–2953P).	November 13, 2008; November 20, 2008; *The Messenger of Juneau County*.	The Honorable Alan Peterson, Chairman, Juneau County, N3161 Highway G, Mauston, WI 53948.	December 2, 2008	550580
Juneau (FEMA Docket No: B–1027).	Village of Union Center (08–05–2953P).	November 13, 2008; November 20, 2008; *The Messenger of Juneau County*.	The Honorable Darold Minett, Mayor, Village of Union Center, P.O. Box 96, Union Center, WI 53962.	December 2, 2008	550207
Juneau (FEMA Docket No: B–1027).	Village of Wonewoc (08–05–2953P).	November 13, 2008; November 20, 2008; *The Messenger of Juneau County*.	The Honorable Kevin Jennings, President, Village of Wonewoc, P.O. Box 37, Wonewoc, WI 53968.	December 2, 2008	550208

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: April 13, 2009.

Michael K. Buckley,

Acting Assistant Administrator, Mitigation Directorate, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. E9–9069 Filed 4–20–09; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 080310410–9585–02]

RIN 0648–AW54

Fisheries of the Exclusive Economic Zone Off Alaska; Revisions to the Pollock Trip Limit Regulations in the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to prohibit a catcher vessel from landing more than 300,000 lb (136 mt) of unprocessed pollock during a calendar day, and from landing a cumulative amount of unprocessed pollock from any Gulf of Alaska reporting area that exceeds 300,000 lb multiplied by the number of calendar days the pollock fishery is open to directed fishing in a season. This rule will prevent catcher vessels from circumventing the intent of current trip limit regulations when making deliveries of pollock. Amending the current trip limit regulation to limit a vessel to 300,000 lb of pollock caught in a day will continue to disperse catches of pollock in a manner that is consistent with the intent of Steller sea lion protection measures in the Gulf of Alaska. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

DATES: Effective May 21, 2009.

ADDRESSES: Copies of the Regulatory Impact Review/Final Regulatory Flexibility Analysis (RIR/FRFA) prepared for this action are available from the Alaska Region NMFS at the address above or from the Alaska Region NMFS website at *http://alaskafisheries.noaa.gov/regs/summary.htm*.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Hartman, 907 586 7442.

SUPPLEMENTARY INFORMATION: NMFS manages the U.S. groundfish fisheries of the exclusive economic zone (EEZ) off Alaska under the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). The North Pacific Fishery Management Council prepared the FMP pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* (Magnuson-Stevens Act). Regulations implementing the FMP appear at 50 CFR part 679. General regulations that pertain to U.S. fisheries appear at subpart H of 50 CFR part 600. The FMP also authorizes the use of fishery management measures to protect marine mammals, particularly for species that have been listed as endangered or threatened under the Endangered Species Act.

Background and Need for Action

The background and need for this action were described in detail in the preamble to the proposed rule published in the **Federal Register** on October 20, 2008, (73 FR 62241). In summary, trip limits regulate the amount of a species that may be landed by a vessel during a fishing trip and often are specific to a management, regulatory, or reporting area; to fishing gear type or programs (such as Steller sea lion protection or the Community Development Quota Program); and to specific intervals of time during a year or season.

Regulations at § 679.7(b)(2) establish trip limits for pollock in the Western and Central Gulf of Alaska (GOA). Pollock trip limits were intended to protect Steller sea lions in part by temporally dispersing the pollock fishery in the GOA, thus reducing competition for prey species between the fishery and Steller sea lions. Trip limits were to accomplish this by decreasing daily pollock catches in areas that were in close proximity to foraging Steller sea lions.

These GOA pollock trip limits have not been completely effective at restricting catches of pollock to 300,000 lb per day. Some trawl catcher vessels were circumventing the intent of the trip limit by making more than one trip per calendar day, delivering more than 300,000 lb to a tender in a day, and towing codends to a tender that exceeded 300,000 lb at the point of landing. Catch data prepared by NMFS for the RIR/FRFA for this rule confirmed that the trip limit regulation has not been fully effective because vessels in the GOA pollock fishery exceeded landings of 300,000 lb in a day, 241 times from 1999 to 2006.

Summary of Regulatory Changes

This final rule adds two major provisions to the current GOA trip limit regulation. The first provision adds a daily landing limit at § 679.7(b)(2)(ii) for pollock by prohibiting a trawl catcher vessel from landing more than 300,000 lb of unprocessed pollock during a calendar day. The daily landing limit will partially close the loophole in regulations that has allowed vessel operators to exceed the trip limit. The second provision adds a seasonal landing limit at § 679.7(b)(2)(iii) that prohibits a trawl catcher vessel from landing a cumulative amount of pollock that exceeds 300,000 lb multiplied by the number of calendar days that the directed fishery is open in a reporting area.

Minor regulatory amendments are also included in this rule. A definition for ''calendar day'' is added at § 679.2 to specify the interval of time in a day from 0001 hours Alaska local time to 2400 hours Alaska local time that a catcher vessel is prohibited from exceeding a daily or seasonal pollock landing limit Regulations governing the prohibitions on pollock trip limits at § 679.7(b)(2) are moved to § 679.7(b)(2)(i) to reorganize § 679.7(b)(2). Figure 3 to part 679 is revised, to increase the accuracy of the geographic boundaries shown on the map and by changing the figure title from ''Gulf of Alaska Statistical and Reporting'' to read ''Gulf of Alaska Reporting Areas.''

This action is consistent with the original intent of pollock trip limits to temporally and spatially disperse catches of pollock in the GOA. The daily landing limit portion of this action will temporally disperse catches of pollock in the GOA by prohibiting operators of catcher vessels from exceeding 300,000 lb of pollock landed in a calendar day. The seasonal landing limit will temporally disperse pollock catches by constraining pollock vessels from exceeding an average daily catch of 300,000 lb of pollock over the period of a season, in a specific GOA regulatory area.

Response to Comments

The proposed rule for this action was published in the **Federal Register** on October 20, 2008 (73 FR 62241). NMFS received one letter of comment from industry on the proposed rule.

Comment: The commenter indicated support for the proposed action, without revision.

Response: NMFS acknowledges this comment of support.

Changes From the Proposed Rule

In the proposed rule, NMFS did not specify that prohibitions for GOA trip limits, daily landing limits and seasonal landing limits would apply to only the vessels that are issued a Federal Fishing Permit (FFP). The final rule corrects that error at § 679.7(b)(2)(i), (ii), and (iii), by prohibiting catcher vessels issued an FFP from (1) retaining more than 300,000 lb of unprocessed pollock on board at anytime during a fishing trip, and (2) landing to a processor or tender more than 300,000 lb of unprocessed pollock harvested from any GOA reporting area on a catcher vessel issued a FFP multiplied by the number of calendar days the directed fishery is open in that reporting area. This correction is necessary to clarify that these regulations apply to vessels fishing with an FFP.

Classification

The Administrator, Alaska Region, NMFS, determined that this regulatory amendment to revise pollock trip limits is necessary for the conservation and management of the groundfish fisheries and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

This final rule has been determined to be not significant for the purposes of Executive Order 12866.

A final regulatory flexibility analysis (FRFA) was prepared. The FRFA incorporates the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, and NMFS responses to those comments, and a summary of the analyses completed to support the action. A copy of this analysis is available from NMFS (see ADDRESSES). The public comment period ended on April 21, 2008. One comment was received in support of the rule. No comments were received on the IRFA or on the economic impacts of the rule.

The objective of this action is to prevent catcher vessels from circumventing the intent of current trip limit regulations when making deliveries of pollock and continue to disperse catches of pollock in a manner

that is consistent with the intent of Steller sea lion protection measures in the GOA. NMFS has identified more than 140 small entities that could be impacted by this action. The effect of this action on regulated entities is likely to be distributional, with some of the small entities increasing catches of pollock and others decreasing catches. If these regulations are approved, some of the small entities that have been circumventing the intent of current pollock trip limits may experience an increase in costs to catch the same number of pollock.

NMFS has not identified a significant alternative to the proposed action that would meet the objectives of the action and would have a smaller adverse impact on directly regulated small entities. The no action alternative was rejected because it is not consistent with the intent of the original 1999 Steller sea lion protection measures. Another alternative to the preferred alternative, considered and rejected, was to limit the applicability of the action to the Federal EEZ. Trawl pollock fisheries in the GOA are managed in the Federal EEZ by NMFS under the FMP, and within State waters by the State of Alaska. The alternative to apply daily and seasonal trip limits to only the Federal EEZ would not encompass activities within State waters by federally permitted vessels. As discussed in the RIR/FRFA for this action, the pollock resource and the fishery within the GOA occur both within Federal and State waters. Applying trip limits, daily landing limits, and seasonal landing limits to fishing in Federal waters only would limit the effectiveness of this action, since participants in the pollock trawl fishery would be free to move to the area where trip limits do not apply.

This regulation does not impose new recordkeeping and reporting requirements on the regulated small entities.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. The preamble to the proposed rule and this final rule fully explain the regulatory amendments that will be implemented to revise trip limits for pollock in the GOA. The proposed rule, final rule, and regulations governing the groundfish fisheries off Alaska are the best source of information about how to comply with the regulatory amendment and, therefore, collectively they represent the small entity compliance guide for this final rule. These documents are available from NMFS (see **ADDRESSES**) and from the NMFS Alaska Region's Web site at *http://alaskafisheries.noaa.gov*.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries.

Dated: April 16, 2009.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR part 679 is amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108–447.

■ 2. In § 679.2 add a definition for ''Calendar day'' in alphabetical order to read as follows:

§ 679.2 Definitions.

* * * * *

Calendar day means a 24–hour period that starts at 0001 hours Alaska local time and ends at 2400 hours Alaska local time.

* * * * *

■ 3. In § 679.7, revise paragraph (b)(2) to read as follows:

§ 679.7 Prohibitions.

* * * * *

(b) * * *

(2) *Catcher vessel harvest limit for pollock.* (i) Retain more than 300,000 lb (136 mt) of unprocessed pollock on board a catcher vessel issued a FFP at any time during a fishing trip as defined at § 679.2;

(ii) Land more than 300,000 lb (136 mt) of unprocessed pollock harvested in any GOA reporting area from a catcher vessel issued a FFP to any processor or tender vessel during a calendar day as defined at § 679.2; and

(iii) Land a cumulative amount of unprocessed pollock harvested from any GOA reporting area from a catcher vessel issued a FFP during a directed fishery that exceeds the amount in paragraph (b)(2)(ii) of this section multiplied by the number of calendar days that occur during the time period the directed fishery is open in that reporting area.

* * * * *

■ 4. In Figure 3 to part 679, the figure heading and map are revised to read as follows:

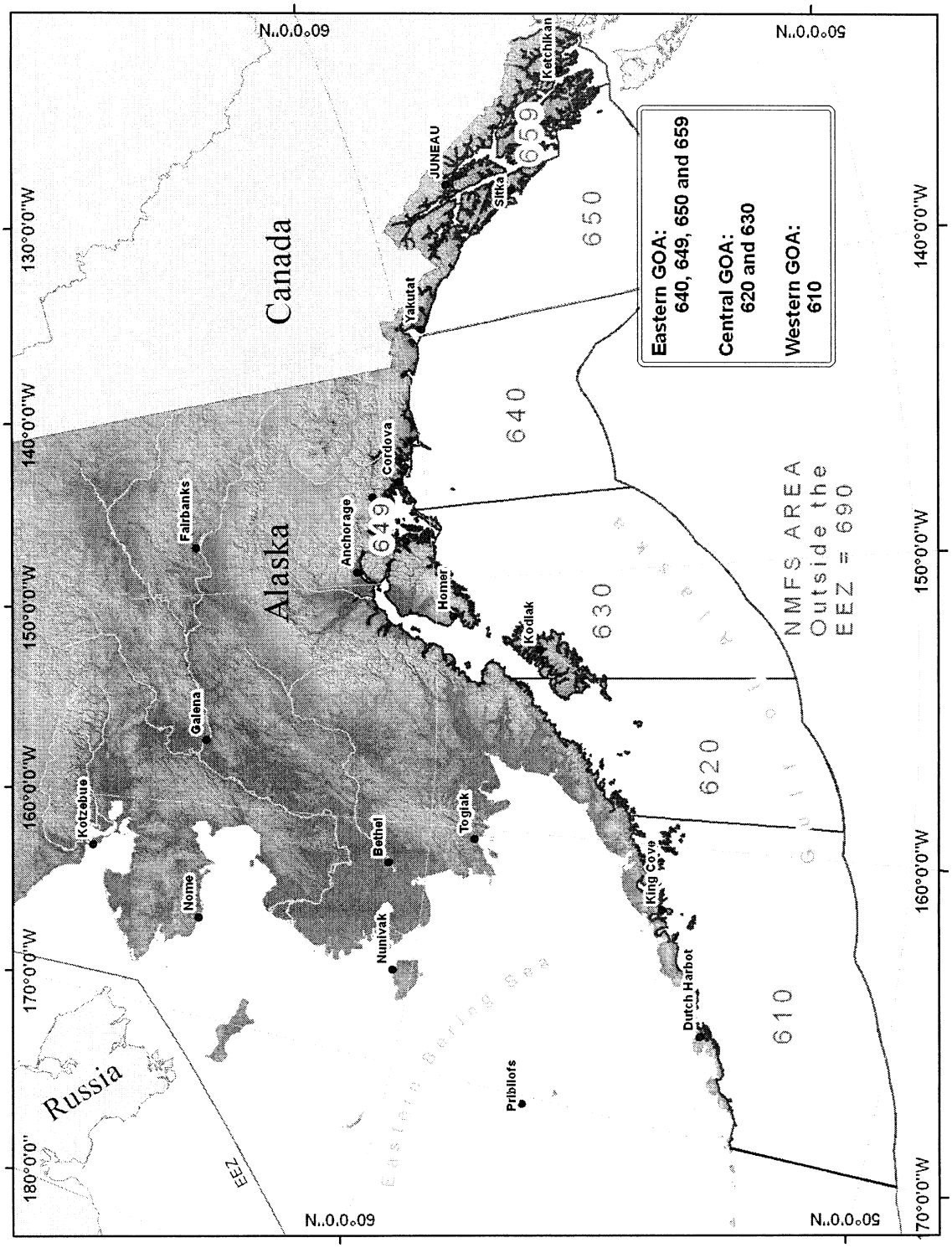


Figure 3 to Part 679 -- Gulf of Alaska Reporting Areas
a. Map

* * * * *

[FR Doc. E9–9107 Filed 4–20–09; 8:45 am]
BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0910091344–9056–02]

RIN 0648–XO73

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in the West Yakutat District of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in the West Yakutat District of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2009 total allowable catch (TAC) of pollock in the West Yakutat District of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 13, 2009, through 2400 hrs, A.l.t., December 31, 2009.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2009 TAC of pollock in the West Yakutat District of the GOA is 1,215 metric tons (mt) as established by the final 2009 and 2010 harvest specifications for groundfish of the GOA (74 FR 7333, February 17, 2009).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the 2009 TAC of pollock in the West Yakutat District of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 1,200 mt, and is setting aside the remaining 15 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in the West Yakutat District of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of pollock in the West Yakutat District of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of April 10, 2009.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 15, 2009.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E9–8997 Filed 4–20–09; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 74, No. 75
Tuesday, April 21, 2009

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2008–0050]

RIN 0579–AC95

Importation of Papaya From Colombia and Ecuador

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to allow, under certain conditions, the importation of commercial shipments of fresh papaya from Colombia and Ecuador into the continental United States. The conditions for the importation of papayas from Colombia and Ecuador include requirements for approved production locations; field sanitation; hot water treatment; procedures for packing and shipping the papayas; and fruit fly trapping in papaya production areas. This action would allow for the importation of papayas from Colombia and Ecuador while continuing to provide protection against the introduction of injurious plant pests into the continental United States.

DATES: We will consider all comments that we receive on or before June 22, 2009.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0050* to submit or view comments and to view supporting and related materials available electronically.
- *Postal Mail/Commercial Delivery:* Please send two copies of your comment to Docket No. APHIS–2008–0050, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2008–0050.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Alex Belano, Branch Chief, Risk Management and Plants for Planting Policy, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 734–5333.

SUPPLEMENTARY INFORMATION:

Background

The regulations in ''Subpart–Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–48, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests that are new to or not widely distributed within the United States.

The national plant protection organizations (NPPOs) of both Colombia and Ecuador have requested that the Animal and Plant Health Inspection Service (APHIS) amend the regulations to allow fresh papayas (*Carica papaya* L., cultivar Solo) to be imported from Colombia and Ecuador into the continental United States. In response to those requests, the Center for Phytosanitary Excellence in Bogotá, Colombia, an APHIS-funded organization, prepared pest risk assessments (PRAs) for each country. After review of the PRAs and consultation with Colombia and Ecuador, APHIS prepared a risk management document that covers both countries. Copies of each PRA and the risk management document may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT** and may be viewed on the Internet on the Regulations.gov Web site or in our reading room (see **ADDRESSES** above for a link to Regulations.gov and information on the location and hours of the reading room).

The PRA prepared in response to Colombia's request, titled ''Importation of Fresh Papaya (*Carica papaya* Linnaeus), cultivar Solo, into the Continental United States from Colombia'' (July 2008), evaluates the risks associated with the importation of papayas into the continental United States from Colombia. The PRA identified two pests of quarantine significance present in Colombia that could be introduced into the United States via fresh papayas: The South American fruit fly (*Anastrepha fraterculus*) and the Mediterranean fruit fly or Medfly (*Ceratitis capitata*).

The PRA prepared in response to Ecuador's request, titled ''Importation of Fresh Papaya Fruit, *Carica papaya* L., into the Continental United States from Ecuador'' (July 2008), evaluates the risks associated with the importation of papayas into the continental United States from Ecuador. The PRA identified three pests of quarantine significance present in Ecuador that could be introduced into the United States via fresh papayas: The South American fruit fly, the Medfly, and the fungal pest *Phoma caricae-papayae.*

APHIS has determined that measures beyond standard port of arrival inspection are required to mitigate the risks posed by the plant pests associated with papayas from both countries. Therefore, we propose to require that the papayas be subjected to a systems approach to pest mitigation. This systems approach would require that the papayas be produced and packed in approved areas of Colombia and Ecuador, would require packing procedures designed to exclude quarantine pests, and would require fruit fly trapping, field sanitation, and hot water treatment to remove pests of concern from the pathway. Only commercial consignments of papayas would be allowed to be imported from Colombia and Ecuador. Consignments of papayas from Colombia and Ecuador would also be required to be accompanied by a phytosanitary certificate issued by the NPPO of the exporting country stating that the papayas were grown, packed, and shipped in accordance with the proposed requirements.

The proposed systems approach to pest mitigation for the importation of papayas from Colombia and Ecuador has been used successfully to mitigate the risk associated with the importation of papayas from Central America and Brazil (§ 319.56–25). The risk management document for papayas from Colombia and Ecuador evaluated the effectiveness of these measures against the quarantine pests of concern and concluded that the provisions in § 319.56–25, along with the general requirements for the importation of fruits and vegetables in the regulations, will be sufficient to prevent the introduction into the continental United States of injurious plant pests identified by the pest risk analyses. Therefore, we propose to amend § 319.56–25 to allow for the importation of papayas from Colombia and Ecuador. The mitigation measures for the proposed systems approach are outlined in greater detail below.

Commercial Consignments

The importation of fresh papayas from Colombia and Ecuador would be limited to commercial consignments only.

This condition would reduce the likelihood that papayas will introduce injurious plant pests into the continental United States. Commercial consignments are less likely to be infested with plant pests than noncommercial consignments. Noncommercial consignments are more prone to infestations because the commodity is often ripe to overripe, may be of a variety with unknown susceptibility to pests, and is often grown with little or no pest control. Commercial consignments, as defined in § 319.56–2, are consignments that an inspector identifies as having been imported for sale and distribution. Such identification is based on a variety of indicators, including, but not limited to: Quantity of produce, type of packaging, identification of grower or packinghouse on the packaging, and documents consigning the fruits or vegetables to a wholesaler or retailer.

We would place the ''commercial consignments only'' limitation in the introductory text of § 319.56–25. Located there, that provision would apply to both the fresh papayas from Colombia and Ecuador that are the subject of this proposed rule and the currently authorized imports of fresh papayas from Central America and Brazil. The permit conditions applicable to papayas from Central America and Brazil already specify that they may be imported in commercial shipments only, so the addition of this provision to the regulations would serve simply to make the restriction more transparent.

Approved Production Areas

The papayas would have to be grown and packed for shipment to the continental United States in an approved area by growers registered with the NPPO of the exporting country. In Colombia, these would be the Municipalities of La Unión, Roldanillo, Toro, and Zarzal in the Province of El Valle de Cauca. In Ecuador, these would be the Cantons of Balzar, El Triunfo, Gral. Antonio Elizalde, Milagro, Naranjal, and Santa Elena in the Province of Guayas, and the Canton of Santo Domingo in the Province of Pichincha.

This condition would ensure that papayas intended for the continental United States are grown and packed in papaya production and packing areas of Colombia and Ecuador where fruit fly traps are maintained and where the other elements of the systems approach described below are in place. In addition, grower registration allows for traceback and removal from the export program of production sites with confirmed pest problems, and the papaya orchards would be monitored by the NPPO to ensure that pest and disease-excluding sanitary procedures are employed.

Harvesting Procedures

Beginning at least 30 days before harvest begins and continuing through the completion of harvest, all trees in the area where the papayas are grown would have to be kept free of papayas that are one-half or more ripe (more than one-quarter of shell surface yellow), and all culled and fallen fruit would have to be buried, destroyed, or removed from the farm at least twice a week.

Although papayas are a potential host for Medfly and South American fruit fly, these fruit flies typically prefer ripe fruits as well as culled or fallen papayas. Therefore, requiring that only green papayas (less than half ripe) be present on the trees and that culled and fallen fruit be buried, destroyed, or removed from the farm would reduce the populations of Medfly and South American fruit fly in the fields where papayas intended for importation into the continental United States are grown.

Treatment

The papayas would have to be held for 20 minutes in hot water at 48 °C (118.4 °F). This treatment is currently used to treat papayas imported from Central America and Brazil for fruit flies under the existing regulations in § 319.56–25. Hot water treatment mitigates the pest risk that could result if fruit flies lay eggs in papayas immediately before harvest. In addition, hot water treatment reduces populations of fungal pathogens such as *P. caricae-papayae* on fruit. This treatment, in conjunction with other safeguards that would be required by the regulations for papayas from Colombia and Ecuador, would reduce the likelihood that papayas will introduce injurious plant pests into the continental United States.

Packaging Procedures

When packed, the papayas would have to be less than one-half ripe (shell surface no more than one-quarter yellow, surrounded by light green) and appear to be free of all injurious insect pests.

This condition would reduce the risk of introduction of Medfly and South American fruit fly, as well as other injurious insect pests, into the continental United States. Papayas that are less than one-half ripe (green) are not preferred hosts for fruit flies. Requiring papayas to be less than one-half ripe when packed thus reduces the risk of their infestation with Medfly or South American fruit fly. In addition, requiring that the papayas appear to be free of all injurious plant pests would help ensure that fruits that are visibly infected with *P. caricae-papayae* are culled before packing.

The papayas would have to be safeguarded from exposure to fruit flies from harvest to export, including being packaged to prevent access by fruit flies or other injurious insect pests during transit. The package containing the papayas would not be allowed to contain any other fruit, including papayas not qualified for importation into the continental United States. These conditions would ensure that papayas that have already been inspected and packaged for shipment to the continental United States are not at risk for fruit fly infestation.

Distribution Limitations

Because the scope of the PRAs that were prepared for this proposed rule was limited to the continental United States, papayas from Colombia and Ecuador would not be authorized for importation or movement into Hawaii or any U.S. territories or possessions. We would implement this distribution limitation by denying permit applications for shipments to destinations outside the continental United States and, for consignments imported into the continental United States, by including as a condition of the permit a prohibition on moving the

papayas to Hawaii or any U.S. territory or possession.

We note that the regulations in § 319.56–25(f) state that papayas from Central America and Brazil must be shipped in individual cartons or boxes stamped or marked with the statement: ''Not for importation into or distribution within Hawaii.'' That distribution limitation was put in place because the papaya fruit fly (*Toxotrypana curvicauda*), which occurs in Central America and Brazil, does not occur in Hawaii, where the majority of U.S. commercial papaya production takes place.

In developing this proposed rule, we considered using similar box marking requirements to communicate the distribution limitations for papayas from Colombia and Ecuador. However, as noted above, we concluded that the permitting process would allow us to effectively implement the distribution limitations. The same factors that led us to conclude that box marking would not be necessary for papayas from Colombia and Ecuador also led us to consider whether it was necessary to continue requiring box marking for papayas from Central America and Brazil. As a result of that consideration, we have concluded that the permitting process would also allow us to effectively implement the distribution limitations on papayas from Central America and Brazil. Therefore, we are proposing to remove the requirement in § 319.56–25(f) that papayas from Central America and Brazil be shipped in individual cartons or boxes stamped or marked with the statement: ''Not for importation into or distribution within Hawaii.''

Fruit Fly Trapping

Beginning at least 1 year before harvest begins and continuing through the completion of harvest, fruit fly traps would have to be maintained in the field where the papayas were grown. Fifty percent of the traps would have to be of the McPhail type, and 50 percent of the traps of the Jackson type. The traps would have to be placed at the rate of 1 trap per hectare and checked for fruit flies at least once a week by plant health officials of the NPPO. The NPPO would have to keep records of the fruit fly finds for each trap, updating the records each time the traps are checked, and make the records available to APHIS upon request. The records would have to be maintained for at least 1 year. This condition would ensure the earliest possible detection of increasing populations of fruit flies in and around fields where papayas are grown.

If the average Jackson fruit fly trap catch is greater than seven Medflies per trap per week, measures would have to be taken to control the Medfly population in the production area. If the average Jackson trap catch exceeds 14 Medflies per trap per week, importations of papayas from that production area would be halted until the rate of capture drops to an average of 7 or fewer Medflies per trap per week.

If the average McPhail trap catch is greater than seven South American fruit flies per trap per week, measures would have to be taken to control the South American fruit flies population in the production area. If the average McPhail trap catch exceeds 14 South American fruit flies per trap per week, importations of papayas from that production area would be halted until the rate of capture drops to an average of 7 or fewer South American fruit flies per trap per week.

These thresholds for Medfly and South American fruit fly trapping would help detect increasing populations of these fruit flies in growing areas; as such, this condition would help ensure that these fruit flies are not associated with imports of papayas into the continental United States.

All activities would have to be conducted under the supervision and direction of plant health officials of the NPPO of the exporting country to help ensure that all activities required by the regulations are properly carried out. Currently, fruit fly trapping is not listed as an activity to which this requirement applies. Therefore, we are proposing to amend § 319.56–25 to make it clear that this requirement applies to all activities, including fruit fly trapping.

Phytosanitary Certificate

All shipments of papayas would have to be accompanied by a phytosanitary certificate issued by the NPPO of the exporting country stating that the papayas were grown, packed, and shipped in accordance with the proposed requirements. This condition would help ensure that the provisions of the regulations have been met. In addition, as part of issuing the phytosanitary certificate, the NPPO would inspect the commodities and certify that they are free of quarantine pests.

The existing regulations in § 319.56–25(k), which we are proposing to redesignate as paragraph (j), provide that all consignments of papayas must be accompanied by a phytosanitary certificate issued by the national Ministry of Agriculture. However, throughout the regulations we identify the official service responsible for discharging functions specified by the International Plant Protection Convention, including the issuance of phytosanitary certificates, as the NPPO of the exporting country, rather than the national Ministry of Agriculture. For clarity and consistency, we propose to amend § 319.56–25(k) to refer to the NPPO.

Miscellaneous

We would amend the regulations in § 319.56–25 in order to clarify that the continental United States includes Alaska, rather than referring to Alaska as a separate entity.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

We are proposing to allow, under certain conditions, the importation of commercial shipments of fresh papaya from Colombia and Ecuador into the continental United States. The conditions for the importation of papayas from Colombia and Ecuador include requirements for approved production locations; field sanitation; hot water treatment; procedures for packing and shipping the papayas; and fruit fly trapping in papaya production areas. This action would allow for the importation of papayas from Colombia and Ecuador while continuing to provide protection against the introduction of injurious plant pests into the continental United States.

The Regulatory Flexibility Act requires agencies to evaluate the potential effects of their proposed and final rules on small businesses, small organizations and small governmental jurisdictions. Section 605 of the Act relieves an agency of the requirement to prepare and make available for public comment an initial regulatory flexibility analysis describing the expected impact of a proposed rule on small entities if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

Businesses most likely to be affected by this rule would be U.S. papaya producers. Papaya production is classified under North American Industry Classification System (NAICS) 111339, other non-citrus fruit farming. The Small Business Administration (SBA) classifies papaya producers as small entities if they have annual sales of not more than $750,000. In the United States in 2002, the U.S. Department of Agriculture's (USDA)

National Agricultural Statistics Service (NASS) reported that 95 percent of enterprises engaged in fruit and tree nut farming (NAICS 1113) made less than $500,000. Most, if not all, papaya producers in the United States are presumably small entities.

Importers and wholesalers of papaya could be affected by the proposed rule as well. These industries and their small-entity size standards are: Fresh fruit and vegetable wholesalers (NAICS 424480, 100 or fewer employees), wholesalers and other grocery stores (NAICS 445110, $23 million or less in annual receipts), warehouse clubs and superstores (NAICS 452910, $23 million or less in annual receipts), and fruit and vegetable markets (NAICS 445230, $6 million or less in annual receipts). Many of the entities that comprise these industries are small.

There are three papaya-producing States, Florida, Hawaii, and Texas, with Hawaii having by far the largest number of producers (including bearing and nonbearing farms). In 2007, 178 Hawaiian farms with 2,135 acres, 1,395 of which were bearing acres, are reported to have grown papaya.[1] Hawaii is the only State for which fresh utilized papaya production is reported by USDA's Economic Research Service (ERS). The latest update (October 2007) by ERS indicates that fresh utilized production was 13,000 short tons.[2] Over the last 5 years, the amount of Hawaiian fresh papaya production has decreased 50 percent.

Florida has a small commercial papaya industry,[3] and the lower Rio Grande Valley in Texas also has only limited commercial plantings due to occasional freezing temperatures.[4] The 2002 Census of Agriculture reported that Florida had 53 papaya-producing farms with a total of 156 acres and that Texas had 5 farms with a total of 6 acres.[5]

In contrast to the decline in domestic production, the quantity of fresh papayas imported since 1999 has almost doubled, as U.S. demand for papayas continues to increase. Imports as a percent of domestic fresh papaya consumption have risen from 80 percent in 2000 to over 94 percent in 2006. U.S. fresh papaya imports for 2006 totaled around 146,000 short tons, while U.S. papaya exports, excluding re-exports, totaled only 3,900 short tons.[6] In other words, the United States imports almost 11 times the quantity of fresh papayas produced domestically.

Hawaiian papayas are available year round, but the peak season starts in early summer and continues into fall. Annual NASS reports show that the percentage of fresh papaya that stayed within the State increased from 50 percent in 2002 to 63 percent in 2006. Shipments of fresh papaya from Hawaii decreased from 10,600 short tons in 2002 to 4,900 short tons in 2006 (37 percent).[7] Preliminary estimates for 2007 indicate a reversal in this pattern, with outshipment of 5,800 short tons and 51 percent of the fresh papaya crop consumed within the State. The Hawaiian NASS Field Office does not report whether Hawaii's out-of-State sales remained within the United States or were exported. The proposed rule would only allow the importation of papaya from Colombia and Ecuador into the continental United States.

Mexico is the principal source of fresh papaya imports by the United States, while additional imports arrive from such countries as Belize, Brazil, Jamaica, and the Dominican Republic. ERS attributes the growing U.S. demand to increasing ethnic populations that are already familiar with papayas and are the main consumers of the fruit, as well as a growing appetite among other consumers for a new, health-promoting, and convenient food.[8]

U.S. producers of papayas must compete against less expensive imports. In 2006, for example, the price of papaya imports from Mexico was about 28 cents per pound, whereas the market price received for fresh papaya in Hawaii averaged over 41 cents per pound. As of April 2008, the fresh papaya farm price in Hawaii was estimated at 51 cents per pound, while Mexico's price was 27 cents.[9] We expect that papaya supplied by Colombia and Ecuador would largely compete against imports from Mexico and elsewhere. With the proposed rule, U.S. papaya producers could expect to face additional competition of less expensive fruit from foreign sources. Given that the U.S. market for fresh papaya is already dominated by imports, the addition of Colombia and Ecuador is unlikely to significantly affect sales by U.S. producers. Estimated papaya production in 2006 for Colombia was 151,000 short tons and for Ecuador, 47,000 short tons.[10]

At least some U.S. firms that import papaya could be expected to benefit from the additional sources of supply, although any such gains overall would be limited by the extent to which fresh papaya cultivar Solo imports from Colombia and Ecuador substitute for imports from other countries. Given the rapidly expanding demand for fresh papaya in the United States, substitution among foreign sources may be limited, depending upon price sensitivities.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This proposed rule would allow commercial shipments of fresh papayas from Colombia and Ecuador into the continental United States. If this proposed rule is adopted, State and local laws and regulations regarding papaya imported under this rule would be preempted while the fruit is in foreign commerce. Fresh fruits are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed

[1] USDA NASS, Hawaii Field Office. ''Papaya Acreage Survey Results.'' Sept. 18, 2007. *http://www.nass.usda.gov/hi/fruit/annpap.pdf*

[2] USDA ERS, Fruit and Tree Nuts Situation and Outlook Yearbook. Susan Pollack and Agnes Perez. Tables A–4, B–23. Oct. 2007. *http://www.ers.usda.gov/publications/FTS/2007/Yearbook/FTS2007.pdf*

[3] University of Florida. IFAS Extension. J.H. Crane, Processor and Tropical Fruit Specialist. 2005. *http://ucce.ucdavis.edu/files/datastore/391-412.pdf*

[4] Sauls, Julian W. Extension Horticulturist. Texas A & M, AgriLIFE Extension. Department of Horticultural Sciences. Retrieved 6/9/08. *http://aggie-horticulture.tamu.edu/extension/homefruit/papaya/papaya.html*

[5] USDA NASS, 2002 Census of Agriculture, Table 36.

[6] Global Trade Atlas. Harmonized System code 080720, Papayas, Fresh.

[7] NASS. Hawaii Field Office. Statistics of Hawaii Agriculture 2006. ''Papayas.'' *http://www.nass.usda.gov/hi/stats/t_of_c.htm*

[8] USDA ERS Fruit and Tree Nut Outlook. Agnes Perez and Susan Pollack. ''California to Produce More Strawberries in 2008, Peach, Nectarine, and Plum Production Adequate.'' May 29, 2008. p. 12 *http://www.ers.usda.gov/Publications/fts/2008/05MAY/FTS332.pdf*

[9] Global Trade Atlas Navigator. United States Import Statistics, monthly data. Commodity Fresh Papaya Harmonized System code 080720. Retrieved 7/22/08. *http://www.gtis.com/gta.*

[10] Food and Agriculture Organization. FAOStat. Commodity ''papayas'' converted from tonnes.

rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS–2008–0050. Please send a copy of your comments to: (1) Docket No. APHIS–2008–0050, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue, SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

APHIS is proposing to allow, under certain conditions, the importation of commercial shipments of fresh papaya from Colombia and Ecuador into the continental United States. The conditions for the importation of papayas from Colombia and Ecuador include requirements for approved production locations; field sanitation; hot water treatment; procedures for packing and shipping the papayas; and fruit fly trapping in papaya production areas. This action would allow for the importation of papayas from Colombia and Ecuador while continuing to provide protection against the introduction of injurious plant pests into the continental United States.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.5 hours per response.

Respondents: National Plant Protection Organizations of Colombia and Ecuador and importers of papaya.

Estimated annual number of respondents: 3.

Estimated annual number of responses per respondent: 100.666.

Estimated annual number of responses: 302.

Estimated total annual burden on respondents: 151 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we propose to amend 7 CFR part 319 as follows:

1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. Section 319.56–25 is revised to read as follows:

§ 319.56–25 Papayas from Central America and South America.

Commercial consignments of the Solo type of papaya may be imported into the United States only in accordance with this section and all other applicable provisions of this subpart.

(a) The papayas were grown and packed for shipment to the continental United States (including Alaska), Puerto Rico, and the U.S. Virgin Islands in one of the following locations:

(1) *Brazil:* State of Espirito Santo; all areas in the State of Bahia that are between the Jequitinhonha River and the border with the State of Espirito Santo and all areas in the State of Rio Grande del Norte that contain the following municipalities: Touros, Pureza, Rio do Fogo, Barra de Maxaranguape, Taipu, Ceara Mirim, Extremoz, Ielmon Marinho, Sao Goncalo do Amarante, Natal, Maciaba, Parnamirim, Veracruz, Sao Jose de Mipibu, Nizia Floresta, Monte Aletre, Areas, Senador Georgino Avelino, Espirito Santo, Goianinha, Tibau do Sul, Vila Flor, and Canguaretama e Baia Formosa.

(2) *Costa Rica:* Provinces of Guanacaste, Puntarenas, San Jose.

(3) *El Salvador:* Departments of La Libertad, La Paz, and San Vicente.

(4) *Guatemala:* Departments of Escuintla, Retalhuleu, Santa Rosa, and Suchitepéquez.

(5) *Honduras:* Departments of Comayagua, Cortés, and Santa Bárbara.

(6) *Nicaragua:* Departments of Carazo, Granada, Leon, Managua, Masaya, and Rivas.

(7) *Panama:* Provinces of Cocle, Herrera, and Los Santos; Districts of Aleanje, David, and Dolega in the Province of Chiriqui; and all areas in the Province of Panama that are west of the Panama Canal; or

(b) The papayas were grown by a grower registered with the national plant protection organization (NPPO) of the exporting country and packed for shipment to the continental United States (including Alaska) in one of the following locations:

(1) *Colombia:* Municipalities of La Unión, Roldanillo, Toro, and Zarzal in the Province of El Valle de Cauca.

(2) *Ecuador:* Cantons of Balzar, El Triunfo, Gral. Antonio Elizalde, Milagro, Naranjal, and Santa Elena in the Province of Guayas, and the Canton of Santo Domingo in the Province of Pichincha.

(c) Beginning at least 30 days before harvest began and continuing through the completion of harvest, all trees in the field where the papayas were grown were kept free of papayas that were one-half or more ripe (more than one-fourth of the shell surface yellow), and all culled and fallen fruits were buried, destroyed, or removed from the farm at least twice a week.

(d) The papayas were held for 20 minutes in hot water at 48 °C (118.4 °F).

(e) When packed, the papayas were less than one-half ripe (the shell surface was no more than one-fourth yellow, surrounded by light green), and appeared to be free of all injurious insect pests.

(f) The papayas were safeguarded from exposure to fruit flies from harvest to export, including being packaged so as to prevent access by fruit flies and

other injurious insect pests. The package containing the papayas does not contain any other fruit, including papayas not qualified for importation into the United States.

(g) Beginning at least 1 year before harvest begins and continuing through the completion of harvest, fruit fly traps were maintained in the field where the papayas were grown. The traps were placed at a rate of 1 trap per hectare and were checked for fruit flies at least once weekly by plant health officials of the NPPO. Fifty percent of the traps were of the McPhail type and 50 percent of the traps were of the Jackson type. The NPPO kept records of fruit fly finds for each trap, updated the records each time the traps were checked, and made the records available to APHIS inspectors upon request. The records were maintained for at least 1 year.

(1) If the average Jackson fruit fly trap catch was greater than seven Mediterranean fruit flies (*Ceratitis capitata*) (Medfly) per trap per week, measures were taken to control the Medfly population in the production area. If the average Jackson fruit fly trap catch exceeds 14 Medflies per trap per week, importations of papayas from that production area must be halted until the rate of capture drops to an average of 7 or fewer Medflies per trap per week.

(2) In Colombia, Ecuador, or the State of Espirito Santo, Brazil, if the average McPhail trap catch was greater than seven South American fruit flies (*Anastrepha fraterculus*) per trap per week, measures were taken to control the South American fruit fly population in the production area. If the average McPhail fruit fly trap catch exceeds 14 South American fruit flies per trap per week, importations of papayas from that production area must be halted until the rate of capture drops to an average of 7 or fewer South American fruit flies per trap per week.

(h) All activities described in paragraphs (a) through (h) of this section were carried out under the supervision and direction of plant health officials of the NPPO.

(i) All consignments must be accompanied by a phytosanitary certificate issued by the NPPO of the exporting country stating that the papayas were grown, packed, and shipped in accordance with the provisions of this section.

(Approved by the Office of Management and Budget under control number 0579–0128)

Done in Washington, DC, this 15th day of April 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9–9100 Filed 4–20–09; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–0188; Airspace Docket No. 09–AGL–5]

Proposed Amendment of Class E Airspace; Port Clinton, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace at Port Clinton, OH. Additional controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAPs) at Carl R. Keller Field Airport, Port Clinton, OH. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) aircraft operations at Carl R. Keller Field Airport.

DATES: 0901 UTC. Comments must be received on or before June 5, 2009.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2009–0188/Airspace Docket No. 09–AGL–5, at the beginning of your comments. You may also submit comments on the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76193–0530; *telephone:* (817) 321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2009–0188/Airspace Docket No. 09–AGL–5.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/*.

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration (FAA), Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by adding additional Class E airspace for SIAPs operations at Carl R. Keller Field Airport, Port Clinton, OH. The area would be depicted on appropriate aeronautical charts.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9S, dated October 3, 2008, and effective October 31, 2008, which is

incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would add additional controlled airspace at Carl R. Keller Field Airport, Port Clinton, OH.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9S, Airspace Designations and Reporting Points, dated October 3, 2008, and effective October 31, 2008, is amended as follows:

Paragraph 6005 Class E Airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL OH E5 Port Clinton, OH [Amended]

Port Clinton, Carl R. Keller Field Airport, OH
(Lat. 41°30′59″ N., long. 82°52′07″ W.)
Magruder Memorial Hospital, OH
Point in Space Coordinates
(Lat. 41°29′43″ N., long. 82°55′50″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Carl R. Keller Field Airport and within 4 miles each side of the 083° bearing from the airport extending from the 7-mile radius to 9.4 miles east of the airport and within a 6-mile radius of the Point in Space serving Magruder Memorial Hospital.

* * * * *

Issued in Fort Worth, TX, on April 6, 2009.

Anthony D. Roetzel,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. E9–9054 Filed 4–20–09; 8:45 am]

BILLING CODE 4901–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–0066; Airspace Docket No. 09–ACE–1]

Proposed Amendment of Class E Airspace; Ord, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace at Ord, NE. Additional controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAPs) at Evelyn Sharp Field Airport, Ord, NE. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) aircraft operations at Evelyn Sharp Field Airport. This action also would update the name and geographic coordinates of the airport to coincide with the FAAs National Aeronautical Charting Office.

DATES: 0901 UTC. Comments must be received on or before June 5, 2009.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2009–0066/Airspace Docket No. 09–ACE–1, at the beginning of your comments. You may also submit comments on the Internet at *http://www.regulations.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76193–0530; *telephone:* (817) 321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2009–0066/Airspace Docket No. 09–ACE–1.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/*.

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration (FAA), Office of Air Traffic Airspace Management, ATA–

400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by changing the airport name from Evelyn Sharp Field to Evelyn Sharp Field Airport; adding additional Class E airspace for SIAPs operations at Evelyn Sharp Field Airport, Ord, NE; and would update the geographic coordinates of the airport. The area would be depicted on appropriate aeronautical charts.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9S, dated October 3, 2008, and effective October 31, 2008, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would add additional controlled airspace at Evelyn Sharp Field Airport, Ord, NE.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9S, Airspace Designations and Reporting Points, dated October 3, 2008, and effective October 31, 2008, is amended as follows:

Paragraph 6005 Class E Airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE NE E5 Ord, NE [Amended]

Ord, Evelyn Sharp Field Airport, NE
(Lat. 41°37′25″ N., long. 98°57′06″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Evelyn Sharp Field Airport and within 4 miles each side of the 316° bearing from the airport extending from the 6.5-mile radius to 11.5 miles northwest of the airport.

* * * * *

Issued in Fort Worth, TX, on April 6, 2009.

Anthony D. Roetzel,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. E9–9052 Filed 4–20–09; 8:45 am]

BILLING CODE 4901–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–0062; Airspace Docket No. 09–AGL–2]

Proposed Amendment of Class E Airspace; Minneapolis, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace for the Minneapolis, MN, area. Additional controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAPs) at Anoka County-Blaine Airport (Janes Field), Minneapolis, MN. Also, there would be a minor adjustment to the geographic coordinates for the Minneapolis-St. Paul International Airport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) aircraft operations at Anoka County-Blaine Airport (Janes Field).

DATES: 0901 UTC. Comments must be received on or before June 5, 2009.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2009–0062/Airspace Docket No. 09–AGL–1, at the beginning of your comments. You may also submit comments on the Internet at *http://www.regulations.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76193–0530; *telephone:* (817) 321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments

on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2009–0062/Airspace Docket No. 09–AGL–1.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/*.

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration (FAA), Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by adding additional controlled Class E airspace for SIAPs operations at Anoka County-Blaine Airport (Janes Field), Minneapolis, MN, and adjusting the geographic coordinates for Minneapolis-St. Paul International Airport to coincide with the FAA's National Aeronautical Charting Office. The area would be depicted on appropriate aeronautical charts.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9S, dated October 3, 2008, and effective October 31, 2008, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would add additional controlled airspace to the Minneapolis, MN, airspace area.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9S, Airspace Designations and Reporting Points, dated October 3, 2008, and effective October 31, 2008, is amended as follows:

Paragraph 6005 Class E Airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL MN E5 Minneapolis, MN [Amended]

Minneapolis-St. Paul International Airport (Wold-Chamberlain) Airport DME
(Lat. 44°52′28″ N., long. 93°12′24″ W.)
Minneapolis, Anoka County-Blaine Airport (Janes Field), MN
(Lat. 45°08′42″ N., long. 93°12′41″ W.)
St. Paul, Lake Elmo Airport, MN
(Lat. 44°59′51″ N., long. 92°51′20″ W.)
Minneapolis, Airlake Airport, MN
(Lat. 44°37′40″ N., long. 93°13′41″ W.)
Farmington VORTAC
(Lat. 44°37′51″ N., long. 93°10′55″ W.)

That airspace extending upward from 700 feet above the surface within a 20-mile radius of the Minneapolis-St. Paul International Airport (Wold-Chamberlain) Airport DME antenna, and within a 6.5-mile radius of the Anoka County-Blaine Airport (Janes Field), and within 4 miles each side of the 001° bearing from the Anoka County-Blaine Airport (Janes Field) extending from the 6.5-mile radius to 9.9 miles, and within a 6.3-mile radius of the Lake Elmo Airport, and within a 6.4-mile radius of the Airlake Airport, and within 3.3 miles each side of the 084° bearing from the Farmington VORTAC extending from the 6.4-mile radius to 14.8 miles east of the Airlake Airport.

* * * * *

Issued in Fort Worth, TX, on April 6, 2009.

Anthony D. Roetzel,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. E9–9053 Filed 4–20–09; 8:45 am]

BILLING CODE 4901–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

Office of National Marine Sanctuaries Interim Policy and Permit Guidance for Submarine Cable Projects

AGENCY: Office of National Marine Sanctuaries (ONMS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice; Request for public comments.

SUMMARY: NOAA is proposing interim policy and permit guidance for submarine cable projects proposed in national marine sanctuaries. This action identifies the criteria the ONMS will use to ensure that applications to install and maintain submarine cables in sanctuaries are reviewed consistently and in a manner that adheres to the National Marine Sanctuaries Act and ONMS regulations (15 CFR part 922).

DATES: Comments on the interim policy and permit guidance for submarine cable projects will be accepted if received on or before May 21, 2009.

ADDRESSES: Comments may be submitted by any of the following methods:

• *Federal e Rulemaking Portal: http://www.regulations.gov.* Submit electronic comments via the Federal e Rulemaking Portal rather than by e-mail;

• *Mail:* Debra Malek, NOAA, Office of National Marine Sanctuaries, 1305 East-West Highway, (N/NMS2), 11th Floor, Silver Spring, Maryland 20910.

Copies of the interim policy and permit guidance for submarine cable projects may be viewed and downloaded at *http://sanctuaries.noaa.gov/.*

Paperwork burden: Submit written comments regarding the burden-hour estimates or other aspects of the information collection requirements contained in this proposed rule by e-mail to Diana Hynek at *dHynek@doc.gov.*

FOR FURTHER INFORMATION CONTACT: Debra Malek, (301) 713–3125, ext. 262.

SUPPLEMENTARY INFORMATION:

Background

The NOAA Office of National Marine Sanctuaries (ONMS) manages a system of thirteen national marine sanctuaries (NMSs or sanctuaries) that protect special, nationally significant areas of the marine environment under the authority of the National Marine Sanctuaries Act (NMSA; 16 U.S.C. 1431 *et seq.*). The ONMS, along with the U.S. Fish and Wildlife Service and the State of Hawaii, also manages the Papahanaumokuakea Marine National Monument under the Antiquities Act. Sanctuaries and the monument protect a variety of marine habitats and cultural resources including coral reefs, mangrove forests, seagrass beds, deep-sea canyons, kelp beds, marine mammal feeding and breeding grounds, and historic shipwrecks and other submerged cultural resources.

In the late 1990s, the ONMS received applications to install and maintain telecommunication submarine cables through the Olympic Coast National Marine Sanctuary and the Stellwagen Bank National Marine Sanctuary. Experience gained through the consideration and issuance of permits for those projects highlighted the need for more clarity on how such projects would be handled in the future.

The Department of Commerce convened a workshop in February 2000 with representatives from the telecommunications and fishing industries, environmental and conservation organizations, and state agencies. A white paper with key issues and guiding principles was distributed prior to, and discussed at, the workshop. The proposed guiding principles included: Analysis of habitat types appropriate or inappropriate for cable laying, analysis of individual sanctuary regulations, and parameters for evaluating proposals for cable installations.

In August 2000, NOAA published an advance notice of proposed rulemaking (ANPR) on Installing and Maintaining Commercial Submarine Cables in National Marine Sanctuaries in the **Federal Register** (65 FR 51264, Aug. 23, 2000). A second ANPR was published in November 2000 at the request of the industry for additional time to comment (65 FR 70537, Nov. 24, 2000). The ANPR requested comments on both the guiding principles contained in the white paper and on the issues raised at the workshop.

Specifically, the ANPR requested comments on:

• Whether changes to existing ONMS regulations or some form of policy guidance was necessary to clarify NOAA's decision-making process regarding the installation and maintenance of commercial submarine cables within NMSs;

• If changes or additional guidance were appropriate, what those changes or guidance should contain; and

• Whether there were comments on the proposed principles on the installation of commercial submarine cables with the marine and coastal environment.

The ONMS received 36 comments from the telecommunications industry, the Department of Defense, the environmental community, State government, and various interested individuals.

General comments on the ANPR included the following:

• The telecommunications industry believed that existing regulations are adequate in NMSs.

• The environmental community urged NOAA to prohibit cables within NMSs, and to develop stringent permit application criteria, including removal of out-of-service cables.

• The industry and the environmental community did not a support a Programmatic Environmental Impact Statement (PETS) or the concept of approving projects in the planning stage.

• The environmental community supported the idea of cable corridors while the industry opposed it.

• The industry wanted improved consultation between NOAA and other cable permitting authorities, such as the U.S. Army Corps of Engineers, the Federal Communications Commission, *etc.,* and more specific, user-friendly criteria for permit applications.

These comments, in addition to direct experience related to cables installed in sanctuaries, were factors that led to NOAA's decision not to pursue rulemaking at this time, but, rather to develop and issue interim permit guidelines. The ONMS believes that cable permit guidelines will ensure that applications to install and maintain submarine cables in sanctuaries are reviewed consistently and in a manner that adheres to the NMSA and ONMS regulations (15 CFR part 922).

John Dunnigan,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. E9–8945 Filed 4–20–09; 8:45 am]

BILLING CODE 3510–NK–M

FEDERAL TRADE COMMISSION

16 CFR Part 429

Trade Regulation Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations

AGENCY: Federal Trade Commission (''FTC'' or ''Commission'').

ACTION: Request for public comment.

SUMMARY: The Commission requests public comment on its Trade Regulation Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations (''Cooling-Off Rule'' or ''Rule''). The Commission is soliciting public comment as part of the FTC's systematic review of all current Commission regulations and guides.

DATES: Written comments concerning the Cooling-Off Rule must be received no later than June 22, 2009.

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to ''Cooling-Off Rule Regulatory Review, 16 CFR 429, Comment, Project No. P087109'' to facilitate the organization of comments. Please note that your comment—including your name and your state—will be placed on the public record of this proceeding, including on the publicly accessible FTC website, at (*http://ftc.gov/os/publiccomments.shtm.*)

Because comments will be made public, they should not include any sensitive personal information, such as an individual's Social Security Number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive

health information, such as medical records or other individually identifiable health information. In addition, comments should not include any ''[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential. . . ,'' as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c).[1]

A comment filed in paper form should include the ''Cooling-Off Rule Regulatory Review, 16 CFR 429, Comment, Project No. P087109'' reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room H-135 (Annex M), 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

You also may consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by following the instructions on the web-based form at the weblink (*https://secure.commentworks.com/ftc-cooling-offrulereview*). To ensure that the Commission considers an electronic comment, you must file it on that web-based form. If this Notice appears at (*http://www.regulations.gov/search/index.jsp*), you also may file an electronic comment through that website. The Commission will consider all comments that *regulations.gov* forwards to it. You also may visit the FTC website at *http://www.ftc.gov* to read the Notice and the news release describing it.

The Federal Trade Commission Act (''FTC Act'') and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at (*http://www.ftc.gov/os/publiccomments.shtm*.) As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. To read our policy on how we handle the information you submit—including routine uses permitted by the Privacy Act—please review the FTC's privacy policy, at (*http://www.ftc.gov/ftc/privacy.shtm*.)

FOR FURTHER INFORMATION CONTACT: Sana Coleman Chriss, Attorney, (404) 656-1364, Federal Trade Commission, Southeast Region, 225 Peachtree Street, NE, Suite 1500, Atlanta, Georgia 30303.

SUPPLEMENTARY INFORMATION:

I. Background

The Cooling-Off Rule was promulgated by the Commission on October 26, 1972, and it was last amended on October 20, 1995.[2] The Rule, as amended, declares it an unfair and deceptive practice for a seller engaged in a ''door-to-door sale''[3] of consumer goods or services, with a purchase price of $25 or more, to fail to provide the buyer with certain oral and written disclosures regarding the buyer's right to cancel the contract within three business days from the date of the sales transaction.[4] The Rule also requires such sellers, within 10 business days after receipt of a valid cancellation notice from a buyer, to honor the buyer's cancellation by refunding all payments made under the contract, returning any traded-in property, cancelling and returning any security interests created in the transaction, and notifying the buyer whether the seller intends to repossess or abandon any shipped or delivered goods.

In addition, the Rule requires door-to-door sellers to furnish the buyer with a completed receipt, or a copy of the sales contract, containing a summary notice informing the buyer of the right to cancel the transaction, which must be in the same language as that principally used in the oral sales presentation. Door-to-door sellers also must provide the buyer with a completed cancellation form, in duplicate, captioned either ''Notice of Right to Cancel'' or ''Notice of Cancellation,'' one copy of which can be returned by the buyer to the seller to effect cancellation.

The Rule provides for certain exemptions and excludes certain transactions from the definition of the term ''door-to-door sale.'' Specifically, the Rule exempts: (1) sellers of automobiles, vans, trucks or other motor vehicles sold at auctions, tent sales or other temporary places of business, provided that the seller is a seller of vehicles with a permanent place of business; and (2) sellers of arts and crafts sold at fairs or similar places. The Rule also excludes certain transactions, including, for example, transactions conducted and consummated entirely by mail or telephone, and without any other contact between the buyer and seller or its representative prior to the delivery of goods or performance of services; transactions pertaining to the sale or rental of real property, to the sale of insurance, or to the sale of securities or commodities by a broker-dealer registered with the Securities and Exchange Commission; and transactions in which the consumer is accorded the right of rescission by the provisions of the Consumer Credit Protection Act (15 U.S.C. 1635) or its regulations.

Finally, the Rule expressly preempts any state laws or municipal ordinances that are directly inconsistent with the Rule, including, for example, state laws or ordinances that impose a fee or penalty on the buyer for exercising his or her right under the Rule, or that do not require the buyer to receive a notice of his or her right to cancel the transaction in substantially the same form as provided in the Commission's Rule.

II. Regulatory Review of the Cooling-Off Rule

The Commission periodically reviews each of its rules and guides to seek information about their costs and benefits and their regulatory and economic impact. The information obtained during these periodic reviews assists the Commission in identifying rules and guides that either should be

[1] *See also* FTC Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* Commission Rule 4.9(c),

[2] 37 FR 22933 (Oct. 26, 1972); 60 FR 54180 (Oct. 20, 1995).

[3] A ''door-to-door sale'' includes sales made at a place other than the place of business of the seller (*e.g.,* sales at the buyer's residence or at facilities rented on a temporary or short term basis, such as hotel or motel rooms, convention centers, fairgrounds and restaurants, or sales at the buyer's workplace or in dormitory lounges). 16 CFR 429.0(a).

[4] As a basis for promulgating the Rule, the Commission identified five categories of complaints directed to the industries utilizing door-to-door marketing techniques: (1) deceptive tactics for getting in the door; (2) high pressure sales tactics; (3) misrepresentation of price, quality, and characteristics of the product; (4) high prices for low quality merchandise; and (5) the nuisance created by the uninvited salesperson. 37 FR 22937-940 (Oct. 26, 1972).

retained without modification, amended, or rescinded. This Notice commences the Commission's review of the Cooling-Off Rule.

As part of its review, the Commission seeks comment on a number of general issues, including the continuing need for the Rule, its economic impact, and the effect of any technological, economic, or industry changes on the Rule.

III. Issues for Comment

The Commission requests written comment on any or all of the following questions. The Commission asks commenters to make their responses as specific as possible and to include both a reference to the question being answered and any references to empirical data or other evidence wherever available and appropriate.

(1) Is there a continuing need for the Rule? Why or why not?

(2) Are there practices addressed by the Rule for which regulation is no longer needed? If so, explain and provide supporting evidence.

(3) What benefits has the Rule provided to consumers? What evidence supports the asserted benefits?

(4) What modifications, if any, should be made to the Rule to increase its benefits to consumers?

(a) What evidence supports the proposed modifications?

(b) How would these modifications affect the costs and benefits of the Rule for consumers?

(c) How would these modifications affect the costs and benefits of the Rule for businesses, and in particular for small businesses?

(5) What impact has the Rule had on the flow of truthful information to consumers and on the flow of deceptive information to consumers? What evidence supports the impact that you have identified?

(6) What significant costs has the Rule imposed on consumers? What evidence supports the asserted costs?

(7) Should any modifications be made to the Rule to reduce the costs imposed on consumers?

(a) What evidence supports the proposed modifications?

(b) How would these modifications affect the costs and benefits of the Rule for consumers?

(c) How would these modifications affect the costs and benefits of the Rule for businesses, and in particular for small businesses?

(8) Is the cancellation notice language provided in the Rule easy for consumers to read and understand? Why or why not? Should the language be modified in any way to improve consumers' understanding of their rights and obligations under the Rule? If so, how?

(9) What benefits has the Rule provided to businesses, and in particular to small businesses? What evidence supports the asserted benefits?

(10) Should any modifications be made to the Rule to increase its benefits to businesses, and in particular to small businesses?

(a) What evidence supports your proposed modifications?

(b) How would these modifications affect the costs and benefits of the Rule for consumers?

(c) How would these modifications affect the costs and benefits of the Rule for businesses?

(11) What significant costs, including costs of compliance, has the Rule imposed on businesses, and in particular on small businesses? What evidence supports the asserted costs?

(12) Should any modifications be made to the Rule to reduce the costs imposed on businesses, and in particular on small businesses?

(a) What evidence supports the proposed modifications?

(b) How would these modifications affect the costs and benefits of the Rule for consumers?

(c) How would these modifications affect the costs and benefits of the Rule for businesses?

(13) What evidence is available concerning the degree of industry compliance with the Rule?

(14) Should the Rule be modified to reflect any technological changes in communications methods or methods for buying and selling goods and services, including, for example, changes in the use of the Internet, electronic mail, or mobile communications? If so, how? What evidence supports the proposed modification?

(15) Have there been any significant industry or economic changes since 1995 that warrant modifying the types of sellers that are exempt from the Rule?

(16) What potentially unfair or deceptive door-to-door sales practices, if any, are not covered by the Rule that should be? Provide evidence to support the assertion.

(17) Does the Rule overlap or conflict with other federal, state, or local laws or regulations? If so, how?

(a) What evidence supports the asserted conflicts?

(b) With reference to the asserted conflicts, should the Rule be modified? If so, why, and how? If not, why not?

(c) Is there evidence concerning whether the Rule has assisted in promoting national consistency with respect to the regulation of door-to-door sales? If so, please provide that evidence.

(18) Have there been any significant changes since 1995 in U.S. consumer credit protection laws or other laws that warrant modification of the Rule? If so, explain and provide evidence to support the proposed modification.

List of Subjects in 16 CFR Part 429

Sales Made at Homes or at Certain Other Locations; Trade practices.

Authority: Sections 1-23, FTC Act, 15 U.S.C. 41-58.

By direction of the Commission.

Donald S. Clark,

Secretary

[FR Doc. E9–9135 Filed 4–20–09: 8:45 am]

BILLING CODE 6750–01–S

DEPARTMENT OF LABOR

Office of Labor-Management Standards

29 CFR Parts 403 and 408

RIN 1215–AB62

Labor Organization Annual Financial Reports

AGENCY: Office of Labor-Management Standards, Employment Standards Administration, Department of Labor.

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: This Notice of Proposed Rulemaking proposes to withdraw a rule published in the **Federal Register** on January 21, 2009, pertaining to the filing by labor organizations of the Form LM–2, an annual financial report required by the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA). On February 3, 2009, the Department's Employment Standards Administration (ESA) Office of Labor-Management Standards (OLMS) published a request for comments about issues of law and policy raised by this rule (74 FR 5899), consistent with directions from the new Administration to review all regulations that had not yet become effective. On February 20, 2009, the Department of Labor postponed the effective date of this rule until April 21, 2009, to allow additional time for the Department to review comments received pursuant to the earlier notice, which were due by March 5, 2009, and to permit labor unions to delay development and implementation of costly changes to their accounting and recordkeeping systems and procedures pending this review. A further extension of the rule's effective date and an

extension of the rule's applicability date were proposed on March 19, 2009, and the effective date is delayed until October 19, 2009 in a document published elsewhere in this issue of the **Federal Register**. Upon consideration of the comments received on questions of law and policy raised by the January 21 rule, the Department proposes its withdrawal, because the rule was issued without an adequate review of the Department's experience under the relatively recent revisions to Form LM–2 in 2003 and because the comments indicate that the Department may have underestimated the increased burden that would be placed on reporting labor organizations by the January 21 rule. Finally, the Department has concluded, based on the comments received, that the provisions related to the revocation of a small union's authorization to file a simpler form because it has been delinquent or deficient in filing that form are not based upon realistic assessments of such a union's ability to file the more complex form and are unlikely to achieve the intended goals of greater transparency and disclosure.

DATES: Comments must be received on or before May 21, 2009.

ADDRESSES: You may submit comments, identified by RIN 1215–AB62, only by the following methods:

Internet—Federal eRulemaking Portal. Electronic comments may be submitted through *http://www.regulations.gov*. To locate the proposed rule, use key words such as ''Labor-Management Standards'' or ''Labor Organization Annual Financial Reports'' to search documents accepting comments. Follow the instructions for submitting comments. Please be advised that comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided.

Delivery: Comments should be sent to: Denise M. Boucher, Director of the Office of Policy, Reports and Disclosure, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–5609, Washington, DC 20210. Because of security precautions the Department continues to experience delays in U.S. mail delivery. You should take this into consideration when preparing to meet the deadline for submitting comments.

The Office of Labor-Management Standards (OLMS) recommends that you confirm receipt of your delivered comments by contacting (202) 693–0123 (this is not a toll-free number). Individuals with hearing impairments may call (800) 877–8339 (TTY/TDD). Only those comments submitted through *http://www.regulations.gov*, hand-delivered, or mailed will be accepted. Comments will be available for public inspection at *http://www.regulations.gov* and during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Denise M. Boucher, Director, Office of Policy, Reports and Disclosure, Office of Labor-Management Standards, Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–5609, Washington, DC 20210, (202) 693–1185 (this is not a toll-free number), (800) 877–8339 (TTY/TDD).

SUPPLEMENTARY INFORMATION:

I. Statutory Authority

This proposed rescission of the January 21, 2009 rule is issued pursuant to section 208 of the LMRDA, 29 U.S.C. 438. Section 208 authorizes the Secretary of Labor to issue, amend, and rescind rules and regulations to implement the LMRDA's reporting provisions. Section 208 also provides that the Secretary shall establish simplified reports for labor organizations or employers for whom [s]he finds that by virtue of their size a detailed report would be unduly burdensome, and to revoke this authorization to file simplified reports for any labor organization or employer if the Secretary determines, after such investigation as she deems proper and due notice and opportunity for a hearing, that the purposes of section 208 would be served by revocation. Secretary's Order 01–2008, issued May 30, 2008, and published in the **Federal Register** on June 6, 2008 (73 FR 32424), contains the delegation of authority and assignment of responsibility for the Secretary's functions under the LMRDA to the Assistant Secretary for Employment Standards and permits re-delegation of such authority.

II. Background

A. Introduction

The proposal to rescind the January 21, 2009 rule is part of the Department's continuing effort to fairly effectuate the reporting requirements of the LMRDA. The LMRDA's various reporting provisions are designed to empower labor organizations and their members by providing the means and information to ensure a proper accounting of labor organization funds. The Department believes that a fair and transparent government regulatory regime must consider and balance the interests of labor organizations, their members, and the public. Any change to a union's recordkeeping, accounting, and reporting practices must be based on a demonstrated and significant need for additional information, consideration of the burden associated with such reporting, and any increased costs associated with reporting additional information.

On January 21, 2009, OLMS published in the **Federal Register** (74 FR 3677) a rule revising the Form LM–2 (used by the largest labor organizations to file their annual financial reports). The rule would require labor unions to report additional information on Schedules 3 (Sale of Investments and Fixed Assets), 4 (Purchase of Investments and Fixed Assets), 11 (All Officers and Disbursements to Officers) and 12 (Disbursement to Employees). The rule also would add itemization schedules corresponding to categories of receipts, and establish a procedure and standards by which the Secretary of Labor may revoke a particular labor organization's authorization to file the simplified annual report, Form LM–3, where appropriate, after investigation, due notice, and opportunity for a hearing. The rule was scheduled to take effect on February 20, 2009, and apply to labor unions whose fiscal years began on or after July 1, 2009.

Consistent with the memorandum of January 20, 2009, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Review'' and the memorandum of January 21, 2009, from the Director of the Office of Management and Budget (OMB), entitled ''Implementation of Memorandum Concerning Regulatory Review,'' on February 3, 2009, OLMS published a request for comments (74 FR 5899) on a proposed 60-day extension of the effective date of the January 21 rule and requesting comment on legal and policy questions relating to the rule, including the merits of rescinding or retaining the rule.

On February 20, 2009 (74 FR 7814), OLMS extended the effective date of the January 21 rule until April 21, 2009, to allow additional time for the Department to review questions of law and policy concerning the regulations, for the public to comment on the merits of the rule, and, meanwhile, to permit unions to delay costly development and implementation of any necessary new accounting and recordkeeping systems and procedures pending this further consideration. On March 19, 2009, OLMS published a proposed rule to further extend the effective date until October 19, 2009 and to extend the applicability date until January 1, 2010. The effective date is delayed until October 19, 2009 in a document

published elsewhere in this issue of the **Federal Register**.

B. The LMRDA's Reporting Requirements

In enacting the LMRDA in 1959, a bipartisan Congress sought to protect the rights and interests of employees, labor organizations and the public generally as they relate to the activities of labor organizations, employers, labor relations consultants, and their officers, employees, and representatives. The LMRDA was the direct outgrowth of a congressional investigation conducted by the Select Committee on Improper Activities in the Labor or Management Field, commonly known as the McClellan Committee. The LMRDA addressed various ills through a set of integrated provisions aimed at labor-management relations governance and management. These provisions include financial reporting and disclosure requirements for labor organizations, their officers and employees, employers, labor relations consultants, and surety companies. *See* 29 U.S.C. 431–36, 441.

The Department has developed several forms for implementing the LMRDA's union financial reporting requirements. The annual reports required by section 201(b) of the Act, 29 U.S.C. 431(b) (Form LM–2, Form LM–3, and Form LM–4), contain information about a labor organization's assets, liabilities, receipts, disbursements, loans to officers and employees and business enterprises, payments to each officer, and payments to each employee of the labor organization paid more than $10,000 during the fiscal year. The reporting detail required of labor organizations, as the Secretary has established by rule, varies depending on the amount of the labor organization's annual receipts. 29 CFR 403.4.

Forms LM–3 and LM–4 were developed by the Secretary to meet the LMRDA's charge that she develop ''simplified reports for labor organizations and employers for whom [s]he finds by virtue of their size a detailed report would be unduly burdensome,'' 29 U.S.C. 438. A labor organization not in trusteeship that has total annual receipts of less than $250,000 for its fiscal year may elect to file Form LM–3 instead of Form LM–2. See 29 CFR 403.4(a)(1). The Form LM–3 is a five-page document requiring labor organizations to provide particularized information by certain categories, but in less detail than Form LM–2. A labor organization not in trusteeship that has total annual receipts less than $10,000 for its fiscal year may elect to file Form LM–4 instead of Form LM–2 or Form LM–3. 29 CFR 403.4(a)(2). The Form LM–4 is a two-page document that requires a labor organization to report only the total aggregate amounts of its assets, liabilities, receipts, disbursements, and payments to officers and employees.

In 2003, the Department enacted extensive changes to the Form LM–2, the largest regulatory change to that form in the history of the LMRDA (''2003 rule,'' 68 FR 58374 (Oct. 9, 2003)). As a result of the changes, labor organizations with annual receipts of $250,000 or more are required to file a Form LM–2 report electronically and to itemize receipts and disbursements of $5,000 or more, as well as receipts not reported elsewhere from, or disbursements to, a single entity that total $5,000 or more in the reporting year. Such disbursements are required to be reported in specific categories such as ''Representational Activities,'' and ''Union Administration.'' The changes eliminated a category entitled ''Other Disbursements'' and, overall, sought much more detailed reporting. Labor organizations were permitted to report sensitive information for some categories that might harm legitimate union or privacy interests with other non-itemized receipts and disbursements, provided the labor organization indicated that it has done so and offered union members access to review the underlying data upon request pursuant to the statute (29 U.S.C. 436).

The 2003 rule also included schedules for reporting information regarding delinquent accounts payable and receivable, and it required labor organizations to report investments with a book value of over $5,000 and exceed 5% or more of the union's investments. Another new schedule required labor organizations to report the number of members by category, and allowed each labor organization to define the categories used for reporting. Finally, the 2003 rule required reporting labor organizations to estimate the proportion of each officer's and employee's time spent in each of the functional categories on the Form LM–2 and report that percentage of gross salary in the relevant schedule.

III. Proposal To Rescind

For the reasons discussed below, the Department is proposing to rescind the January 21, 2009 rule (74 FR 3678). Rescission of the January 21 rule would not affect the filing of the Form LM–2 as prescribed by the 2003 rule or the Form LM–3, thereby ensuring disclosure of financial information to union members and the public as required under the LMRDA. The Department invites comments on its proposal to rescind the January 21 rule.

A. Proposal To Rescind the 2009 Changes to Form LM–2

1. Background

The January 21, 2009 rule modified Form LM–2 by requiring labor organizations to disclose additional information about their financial activities to their members, this Department, and the public. On the revised form, labor organizations would provide additional information in Schedule 3 (''Sale of Investments and Fixed Assets'') and Schedule 4 (''Purchase of Investments and Fixed Assets''), which the rule justified by stating that the changes would allow verification that these transactions were performed at arm's length and without conflicts of interest. 74 FR at 3684–87. Schedules 11 and 12 were also revised to require reporting of the value of benefits paid to and on behalf of officers and employees. 74 FR at 3687–91. The preamble to the rule stated that this change would provide a more accurate picture of total compensation received by labor organization officers and employees. 74 FR at 3689. Labor organizations would report on Schedules 11 and 12 travel reimbursements indirectly paid on behalf of labor organization officers and employees. 74 FR at 3687–88. The Form LM–2 changes also included additional schedules corresponding to the following categories of receipts: Dues and Agency Fees; Per Capita Tax; Fees, Fines, Assessments, Work Permits; Sales of Supplies; Interest; Dividends; Rents; On Behalf of Affiliates for Transmittal to Them; and From Members for Disbursement on Their Behalf. 74 FR at 3691–93. These new schedules would require the reporting of additional information, by receipt category, of aggregated receipts of $5,000 or more. Id.

The preamble to the rule published on January 21, 2009, explained these changes to the Form LM–2 as an attempt to ensure that information is reported in such a way as to meet the objectives of the LMRDA by providing labor organization members with useful data that will enable them to be responsible and effective participants in the democratic governance of their labor organizations. 74 FR at 3680–81. The modifications were intended as enhancements designed to provide members of labor organizations with additional and more detailed information about the financial activities of their labor organization that

had not previously been available through the Form LM–2 reporting. Id.

2. Reasons for Rescission of the Changes to Form LM–2

Numerous labor organizations responded to the Department's February 3, 2009 notice proposing to delay the effective date of the January 21 rule and requesting comments on the merits of the rule, urging the Department to rescind the rule and claiming that the Department underestimated its costs. Several labor organizations identified what they viewed as two fundamental flaws with the 2009 regulations. First, they argued that the regulations had been promulgated without any meaningful review of the effect of the 2003 rule, leaving unverified the assumptions underlying the 2003 revision that union members would benefit from the itemization and other changes introduced in 2003. The commenters also noted that the 2009 rule came only a few reporting cycles after the significant changes associated with the 2003 rule. Second, they argued that the Department's burden estimates for the 2009 rule were based on estimates used in the 2003 rulemaking rather than the actual costs incurred by labor unions in reshaping their recordkeeping and accounting systems to comply with the changes associated with the 2003 rule.

The Department's revised Form LM–2 reporting and recordkeeping requirements were published in 2003, but labor organizations did not file initial reports under this revised system until 2005. The Department agrees with the commenters and now believes that it was a mistake to propose further changes to the Form LM–2 reporting requirements so soon after the 2003 rule, without proper consideration of the effects of these changes, both in terms of benefits and costs. Without undertaking such review, the Department could not adequately weigh the competing interests of transparency and union autonomy.

A federation of labor organizations and an international labor organization each stated that the Department had failed to demonstrate that the revised form would aid in the detection or prevention of corruption, noting its view that internal controls established by unions are the more effective approach. This commenter also asserted that the Department's annual reports fail to demonstrate that enhanced reporting has assisted the Department's compliance efforts. The Department acknowledges that the January 21 rule did not adequately consider the effects of the 2003 changes, particularly regarding the assumed potential benefits of the changes. Further, the Department agrees that additional review would be beneficial to determine how the 2003 rule helped identify financial corruption before deciding that additional regulatory changes would facilitate this purpose.

The Department also received comments from individuals and public policy groups that opposed the rescission of the rule, explaining their views that the regulations enhanced the transparency and accountability of labor unions. One of these groups urged the Department to discount any claims by labor unions that the regulations would entail substantial financial burden, stating that labor unions had consistently overstated costs associated with the Department's 2003 revision to the Form LM–2. This policy group argued that the January 21 rule will provide increased financial disclosure that will benefit union members, and it provided cites to legislative history and recent examples of union financial wrongdoing to illustrate the necessity of more stringent reporting laws. This group went on to present what it thought was the key policy issue related to this rule: Whether the Department should have imposed even more stringent disclosure requirements for labor organizations, which would prevent, in its view, the concealment of expenditures made by union officials. It urged the Department to err on the side of increased disclosure, arguing, without further support, that the increased disclosure outweighed the burden.

The Department agrees with the contention that financial transparency is necessary to protect against union fraud and corruption, enhance accountability among union officials, and that it is necessary for members to effectively engage in union self-governance. A review of the usefulness of the information that has been reported since the Form LM–2 was revised in 2003, as well as an examination of data regarding the burden placed on unions by that revision, will provide a better basis for determining whether additional changes are necessary in order to properly balance the need for transparency with the need to protect unions from excessive burdens imposed by reporting and disclosure requirements.

A failure to consider the utility of increased reporting and its attendant burdens can result in a reporting regime not intended by the Congressional authors of the LMRDA. The Department is obliged to consider the intent of Congress to ''strike a balance between too much and too little legislation in this field.'' 105 Cong. Rec. 816 (daily ed. Jan. 20, 1959) (quoting Senator John F. Kennedy), reprinted in 2 *NLRB Leg. Hist. of the LMRDA,* at 969. A federation of labor unions pointed out that Congress expressed a preference that ''the major recommendations of the [McClellan] select committee [be implemented] within a general philosophy of legislative restraint.'' S. Rep. No. 187 (1959), reprinted in 1 *NLRB Leg. Hist. of the LMRDA,* at 403). Another federation of labor unions noted that the Department's Form LM–2 rulemaking failed to take into account what it sees as an imperative underlying the LMRDA, i.e., that restraint and great care must be shown in regulating union internal affairs so as not to undermine union self government by the union's members. A similar point was raised by another commenter, explaining that Congress expressed a preference to avoid impeding legitimate unionism, citing to remarks by Senator Frank Church (105 Cong. Rec. 6024 (daily ed. Apr. 25, 1959), reprinted in 2 NLRB *Leg. Hist. of the LMRDA,* at 1233), and again by another commenter, citing to remarks by Senator John F. Kennedy, who observed that Congress intended ''to permit responsible unionism to operate without being undermined by either racketeering tactics or bureaucratic controls.'' 105 Cong. Rec. 816 (daily ed. Jan. 20, 1959), reprinted in 2 *NLRB Leg. Hist. of the LMRDA,* at 969).

The Department now believes that the January 21 rule failed to appropriately consider the experience of reporting under the 2003 Form LM–2 rule, including the burden of the reporting requirements. Further consideration of that experience will enable the Department to determine whether the Form LM–2, as revised by the 2003 rule, reflects a proper balance of the need for transparency and union autonomy. For these reasons, the Department proposes rescission of the January 21 rule.

B. Proposal To Rescind the Procedure To Revoke the Form LM–3 Filing Authorization

1. Background

The Department also proposes to rescind the part of the January 21 rule that established standards and procedures for revoking the simplified report filing authorization provided by 29 CFR 403.4(a)(1) for those labor organizations that are delinquent in their Form LM–3 filing obligation, fail to cure a materially deficient Form LM–3 report after notification by OLMS, or where other situations exist where revoking the Form LM–3 filing

authorization furthers the purposes of LMRDA section 208.

Under the revocation procedure, when there appear to be grounds for revoking a labor organization's authorization to file the Form LM–3, the Department could conduct an investigation to confirm the facts relating to the delinquency or other possible ground for revocation. If the Department after investigation found grounds for revocation, the Department could send the labor organization a notice of the proposed Form LM–3 revocation stating the reason for the proposed revocation and explaining that revocation, if ordered, would require the labor organization to file the more detailed Form LM–2. The letter would provide notice that the labor organization has the right to a hearing if it chooses to challenge the proposed revocation, and that the hearing would be limited to written submissions due within 30 days of the date of the notice. In its written submission, the labor organization would be required to present relevant facts and arguments that address, in part, whether the circumstances concerning the delinquency or other grounds for the proposed revocation were caused by factors reasonably outside the control of the labor organization; and any factors exist that mitigate against revocation.

After review of the labor organization's submission, the Secretary would issue a written determination, stating the reasons for the determination, and, as appropriate based on neutral criteria, inform the labor organization that it is required to file the Form LM–2 for such reporting periods as he or she finds appropriate.

2. Reasons for Rescission of the Revocation Procedure

After further review and consideration of the public comments received on this point, the Department believes that the January 21 rule establishing the revocation procedure and standards did not adequately assess the burden on the smaller labor organizations and the realistic likelihood that, in light of that burden, the rule will accomplish the intended results of increased transparency and more disclosure. Rather, the Department believes that there is no realistic likelihood that most small unions would have the information or means to file the more detailed Form LM–2. Further, as discussed above, the LMRDA requires a balancing of transparency and union autonomy. Therefore, the Department proposes to rescind the January 21 rule establishing the revocation procedure and standards.

Section 208 mandates that the Secretary shall issue simplified reports for labor organizations for which she finds that ''by virtue of their size a detailed report would be unduly burdensome,'' but also permits the Secretary to revoke such filing authorization if ''the purposes of this section would be served thereby.'' Therefore, the ''purposes'' of section 208 must include ensuring that a more detailed report for a smaller union would not be ''unduly burdensome'' by virtue of its size, as the Secretary is required to issue less detailed reports for smaller unions under these circumstances. The Department thus needed to create a balance between the need for financial transparency with the need to limit the burden and intrusion upon smaller labor organizations.

The January 21 rule did not adequately address this balance, and it did not explain why a more detailed financial disclosure report for a smaller union would not be ''unduly burdensome.'' The rule calculated burden based on a projection that 96 filers would be required to file the Form LM–2. This burden is necessarily understated. Form LM–3 filers, not merely those whose right to file a Form LM–3 is revoked, will be burdened to some extent. In order to file a Form LM–2, steps must be taken at the start of the fiscal year. Accounting systems and procedures must be in place that will track and maintain the data required by the Form LM–2. In this regard, the comments of an international union are instructive. It explained the difficulty it has experienced in converting the financial records of its affiliates to enable compliance with the Form LM–2 reporting requirements in circumstances involving trusteeship. (Under the labor organization reporting requirements an international union must file a Form LM–2 for any affiliate in trusteeship, regardless of its receipt size.) This commenter advised that the international's auditors face an ''almost impossible'' task in retroactively converting financial records for use on Form LM–2 reporting. The difficulty for an LM–3 filer filing on its own behalf would be greater.

Based on consideration of these comments, the Department now concludes that there is no realistic likelihood that most small unions would have the information or means to file the more detailed Form LM–2 and that the revocation procedures established by the January 21 rule will be unlikely to result in more disclosure. Moreover, the Department does not believe that it provided sufficient support in the final rule for the conclusion that revocation will reduce delinquency and deficiencies in reporting. Rather, the Department believes that its final rule was counter-intuitive, because there is no justification in the rulemaking record that counters the logical conclusion that Form LM–3 filers required to file Form LM–2 reports pursuant to revocation may also fail to submit timely and accurate Form LM–2 reports.

Several commenters voiced support for a compliance-based approach, including the Department's use of international unions to aid in compliance, rather than what they viewed as a more punitive approach in the January 21 rule. One international union also commented that, in its experience, small local unions fail to file timely or complete Form LM–3 reports because of inadequate staff to prepare the forms or the lack of finances to hire an accountant, which, the commenter noted, are in addition to the similar reasons offered by the Department in its NPRM. *See* 73 FR 27354. Another commenter added to the rule's list of reasons for delinquent and deficient filings the following: part-time officers, who are full-time employees outside of the union and lack accounting knowledge; few personnel and a lack of financial resources because of size; and simplified accounting systems. Given the above, the commenter asked how a typical Form LM–3 filer could be expected to file the more detailed and time-consuming Form LM–2, with aggregation, itemization, functional categorization, and a more complicated accounting system. The commenter added that Form LM–3 filers would not have enough time to change systems, and it believed it is not possible to recreate some of the records that would be necessary to accurately submit a Form LM–2 report. This filer concluded that the revocation procedure, which focused on isolated occurrences, was punitive and did not advance the interests of members or the LMRDA, and it advocated a compliance-based system that used international unions, as this process has worked in the past.

The Department agrees with comments that advocated a compliance assistance approach, particularly one drawing upon the cooperative efforts of national and international unions, rather than a revocation procedure. For the reasons stated, a revocation procedure is not likely to improve delinquency and deficiencies in Form LM–3 reporting, and it could actually decrease these statistics since filers may have greater difficulty successfully meeting the Form LM–2 reporting

requirements. The Department instead believes that a compliance assistance approach is more likely to increase proper reporting than a revocation approach that is counter-intuitive and likely to damage compliance assistance efforts.

One public policy organization commented that the effects of the revocation had been inflated by some commenters, and that until the Secretary is given the authority to issue civil monetary penalties to delinquent and deficient filers, the revocation procedure should serve as that penalty. The commenter went on to state that the approach seemed harmless and thus not problematic. The Department disagrees with this commenter. The purposes for which the Secretary may revoke an organization's authorization to file a simpler form are the purposes of transparency and enhanced disclosure, not punishment. As shown above, those purposes are not served by imposing a requirement that there is no realistic expectation that most small labor organizations will be able to meet.

Other commenters listed several possibly detrimental consequences of the revocation procedure, such as the diversion of union officials from grievance handling and other core business; the resignation of union officials; and the merger and imposition of trusteeships by international unions. The Department believes that the January 21 rule did not adequately address these comments, as it failed to appropriately balance the need for transparency with the need to limit burden and intrusion upon smaller unions. Further, the Department does not believe that it can justify revocation by merely lessening or playing down the acknowledged increased burden imposed by the Form LM–2 reporting requirements. As a matter of policy, the Department does not intend to encourage or discourage the participation of union members from running and serving in union office, nor does it otherwise desire to unnecessarily interfere in the internal affairs of unions. The Department intends to implement the LMRDA with as little interference as possible, with the overarching goal of empowering members to govern their unions democratically. Compliance assistance is a vital aspect of this approach, as are audit and enforcement options and both are better approaches than a revocation procedure that is viewed as punitive to Form LM–3 filers.

IV. Regulatory Procedures

Executive Order 12866

This proposed rule has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.,* requires agencies to prepare regulatory flexibility analyses, and to develop alternatives wherever possible, in drafting regulations that will have a significant impact on a substantial number of small entities. The Department does not believe that this proposed rule will have a significant economic impact on a substantial number of small entities, as the rule contains no collection of information and relieves the additional burden imposed upon labor organizations through the rescission of the regulations published on January 21, 2009. Therefore, a regulatory flexibility analysis under the Regulatory Flexibility Act is not required. The Secretary has certified this conclusion to the Chief Counsel for Advocacy of the Small Business Administration.

Unfunded Mandates Reform

This proposed rule will not include any Federal mandate that may result in increased expenditures by State, local, and tribal governments, in the aggregate, of $100 million or more, or in increased expenditures by the private sector of $100 million or more.

Paperwork Reduction Act

This proposed rule contains no new information collection requirements for purposes of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*). The January 21, 2009 rule would increase the burden of reporting under OMB No. 1215–0188, if the Department determines rescission is inappropriate and the January 21, 2009 rule become effective. Under the January 21, 2009 rule the total burden hours per Form LM–2 respondent would be increased by approximately 60.06 hours, and the total burden hours will be increased by 274,539. The average cost per Form LM–2 respondent would be increased by $1,939 and the total cost would be increased by $8,863,038. If this proposed rule is adopted these increases in reporting burden under OMB No. 1215–0188 will not occur. The Department will seek OMB approval of any revisions of the existing information collection requirements, in accordance with the PRA.

Small Business Regulatory Enforcement Fairness Act of 1996

This proposed rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects in 29 CFR Part 403

Labor unions, Reporting and recordkeeping requirements.

Text of Proposed Rule

Accordingly, for the reasons stated herein, the Secretary proposes to withdraw the rule published on January 21, 2009 (74 FR 3677) and retain the text of the regulations prior to that date.

Signed in Washington, DC, this 16th day of April 2009.

Shelby Hallmark,

Acting Assistant Secretary for Employment Standards.

Andrew D. Auerbach,

Deputy Director, Office of Labor-Management Standards.

[FR Doc. E9–9175 Filed 4–20–09; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2007–1045; FRL–8893–9]

Approval and Promulgation of Air Quality Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a site-specific revision to the Minnesota sulfur dioxide (SO_2) State Implementation Plan (SIP) for the Olmsted Waste to Energy Facility (OWEF), located in Rochester, Olmsted County, Minnesota. In its September 28, 2007, submittal, the Minnesota Pollution Control Agency (MPCA) requested that EPA approve certain conditions contained in OWEF's revised Federally enforceable Title V operating permit into the Minnesota SO_2 SIP. The request is approvable because it satisfies

the requirements of the Clean Air Act (Act).

DATES: Comments must be received on or before May 21, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2007–1045, by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail: mooney.john@epa.gov.*
3. *Fax:* (312) 886–5824.
4. *Mail:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Christos Panos, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8328, *panos.christos@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: March 30, 2009.

Walter W Kovalick Jr.,

Acting Regional Administrator, Region 5.

[FR Doc. E9–9043 Filed 4–20–09; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 080630798–9258–01]

RIN 0648–AW92

Pacific Halibut Fisheries; Limited Access for Guided Sport Charter Vessels in Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations that would implement a limited access system for charter vessels in the guided sport fishery for Pacific halibut in waters of International Pacific Halibut Commission (IPHC) Regulatory Areas 2C (Southeast Alaska) and 3A (Central Gulf of Alaska). If approved, this limited access system would limit the number of charter vessels that may participate in the guided sport fishery for halibut in these areas. NMFS would issue a charter halibut permit to a licensed charter fishing business owner based on his or her past participation in the charter halibut fishery for halibut and to a Community Quota Entity representing specific rural communities. All charter halibut permit holders would be subject to limits on the number of permits they could hold and on the number of charter vessel anglers who could catch and retain halibut on their charter vessels. This action is necessary to achieve the halibut fishery management goals of the North Pacific Fishery Management Council. The intended effect is to curtail growth of fishing capacity in the guided sport fishery for halibut.

DATES: Written comments must be received by June 5, 2009.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments identified by 0648–AW92 by any one of the following methods:

- Electronic submissions: Submit all electronic public comments via the Federal eRulemaking Portal website at *http://www.regulations.gov*.
- Mail: P.O. Box 21668, Juneau, AK 99802–1668.
- Fax: 907–586–7557.
- Hand delivery: 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are part of the public record and will be posted to *http://www.regulations.gov* without change. All personal identifying information (such as name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file format only.

Written comments regarding the burden-hour estimates or other aspects of the collection–of–information requirements contained in this proposed rule may be submitted to NMFS at the above address and by e–mail to *David__Rostker@omb.eop.gov* or fax to 202–395–7285.

Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis prepared for this action may be obtained from the Alaska Region, NMFS at the address above or from the Alaska Region website at *http://www.fakr.noaa.gov/*.

FOR FURTHER INFORMATION CONTACT: Jay Ginter, 907–586–7228.

SUPPLEMENTARY INFORMATION: The IPHC and NMFS manage fishing for Pacific halibut (*Hippoglossus stenolepis*) through regulations established under authority of the Northern Pacific Halibut Act of 1982 (Halibut Act). The IPHC promulgates regulations governing the Pacific halibut fishery under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, D.C., on March 29, 1979). Regulations developed by the IPHC are subject to approval by the Secretary of

State with concurrence from the Secretary of Commerce (Secretary). After approval by the Secretary of State and the Secretary, the IPHC regulations are published in the **Federal Register** as annual management measures pursuant to 50 CFR 300.62. The most recent IPHC regulations were published March 7, 2008 at 73 FR 12280. IPHC regulations affecting sport fishing for halibut and charter vessels in Areas 2C and 3A may be found in sections 3, 25, and 28 (73 FR 12280, March 7, 2008).

The Halibut Act, at Sections 773c(a) and (b), provides the Secretary with general responsibility to carry out the Convention and the Halibut Act. In adopting regulations that may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act, the Secretary is directed to consult with the Secretary of the department in which the U.S. Coast Guard is operating.

The Halibut Act at, Section 773c(c), also provides the North Pacific Fishery Management Council (Council) with authority to develop regulations, including limited access regulations, that are in addition to, and not in conflict with, approved IPHC regulations. Such Council–developed regulations may be implemented by NMFS only after approval by the Secretary. The Council has exercised this authority most notably in the development of its Individual Fishing Quota (IFQ) Program, codified at 50 CFR part 679, and subsistence halibut fishery management measures, codified at 50 CFR 300.65. The Council also has been developing a regulatory program to manage the guided sport charter vessel fishery for halibut. This action is proposed as a step in the development of that regulatory program.

Management of the Halibut Fisheries

The harvest of halibut occurs in three basic fisheries—the commercial, sport, and subsistence fisheries. Additional fishing mortality occurs as bycatch or incidental catch while targeting other species and wastage of halibut that are caught but cannot be used for human food.

The IPHC annually determines the amount of halibut that may be removed from the resource without causing biological conservation problems on an area–by–area basis in all areas of Convention waters. It imposes catch limits, however, only on the commercial sector in areas in and off of Alaska. The IPHC estimates the exploitable biomass of halibut using a combination of harvest data from the commercial, recreational, subsistence fisheries, and information collected during scientific surveys and sampling of bycatch in other fisheries. The target amount of allowable harvest for a given area is calculated by multiplying a fixed harvest rate by the estimate of exploitable biomass. This target level is called the total constant exploitation yield (CEY) as it represents the target level for total removals (in net pounds) for that area in the coming year. The IPHC subtracts estimates of all non–commercial removals (sport, subsistence, bycatch, and wastage) from the total CEY. The remaining CEY, after the removals are subtracted, is the maximum catch or ''fishery CEY'' for an area's directed commercial fixed gear fishery.

This method of determining the commercial fishery's catch limit in an area results in a decrease in the commercial fishery's use of the resource as other non–commercial users increase their proportion of the total CEY. As conservation of the halibut resource is the overarching goal of the IPHC, it attempts to include all sources of fishing mortality of halibut within the total CEY. This method for determining the limit for the commercial use of halibut has worked well for many years to conserve the halibut resource, provided that the other non–commercial uses of the resource have remained relatively stable and small. Although most of the non–commercial uses of halibut have been relatively stable, growth in the guided sport charter vessel fishery in recent years has resulted in this fishery harvesting a larger amount of halibut than it did in earlier years. Increases in the halibut harvest of any non–commercial fishery reduce the amount available to the commercial fishery.

History of Charter Vessel Fishery Management

Until 2007, guided sport fishing for halibut on charter vessels was governed only by regulations developed by the IPHC that were applicable to all halibut sport fishing. Current IPHC sport fishing regulations may be found in the annual management measures referenced above (at in sections 3, 25, and 28 (73 FR 12280, March 7, 2008)). In summary, the basic IPHC sport fishing rules for Alaska stipulate the following:

- A single line with no more than two hooks attached or a spear;
- A daily bag limit of two halibut of any size (except for charter vessel anglers in Area 2C, as explained below);
- A possession limit of two daily bag limits;
- A sport fishing season of February 1 through December 31;
- A prohibition on sale, trade, or barter of sport–caught halibut; and
- A prohibition on filleting, mutilating, or otherwise disfiguring halibut on board a fishing vessel except that each halibut may be cut into no more than two ventral, two dorsal pieces and two cheeks with skin on.

The IPHC first adopted sport halibut fishing rules in 1973, in response to Federal, state, and provincial agencies seeking consistency and uniformity in sport fishing regulations in all IPHC areas. The IPHC bag limit rule was first established as three fish per day per person in 1973, was reduced to one fish per day in 1974, and raised to two fish per day in 1975, where it has remained until present. Similarly, the IPHC established the sport fishing season for halibut originally from March 1 through October 31 in 1973, and changed it for several years until the current 11-month season was set in 1986. Finally, during the years 1984 through 1997, the IPHC required sport charter vessels to have IPHC licenses.

The Council has discussed the expansion of the guided sport charter vessel fishery for halibut, and the need to manage it, since 1993. A guideline harvest level (GHL) for Area 2C and a separate GHL for Area 3A were adopted by the Council in 1997. The GHLs by themselves do not limit the charter vessel fisheries. Although the Council's policy is that the charter vessel fisheries should not exceed the GHLs, no constraints were initially recommended by the Council or imposed on the charter vessel fisheries for exceeding a GHL. The Council stated its intent to maintain a stable charter vessel fishing season without a mid–season closure. The Council envisioned ''framework'' regulations of increasing restrictiveness depending on the extent to which a GHL was exceeded. Proposed framework regulations were published in 2002 (January 28, 2002; 67 FR 3867); however, NMFS informed the Council later that year that its framework regulations could not be implemented as envisioned. Hence, proposed and final rule notices were published (January 28, 2002, 67 FR 3867 and August 8, 2003, 68 FR 47256, respectively) establishing the GHLs without restrictive regulations and codified at 50 CFR 300.65(c).

The GHLs represent a pre–season specification of acceptable annual halibut harvests in the charter vessel fisheries in Areas 2C and 3A. To accommodate some growth in the charter vessel sector while approximating historical harvest levels, the Council recommended GHLs based on 125 percent of the average 1995 through 1999 charter vessel harvest. For Area 2C the GHL was set at 1,432,000

lb (649.5 mt) net weight, and in Area 3A the GHL was set at 3,650,000 lb (1,655.6 mt) net weight.

When the Council recommended these GHLs, halibut stocks were considered to be near record high levels of abundance. To accommodate decreases and subsequent increases in abundance, the Council recommended a system of step–wise adjustments in each GHL based on a predetermined uniform measure of stock abundance. The measure used was the total CEY determined annually by the IPHC. Specifically, the Council linked a step–wise reduction in the GHL in any one year to the decrease in the total CEY as compared to the 1999 through 2000 average CEY. For example, if the halibut stock in Area 2C were to fall from 15 to 24 percent below its 1999 through 2000 average CEY, then the GHL for Area 2C would be reduced by 15 percent. Conversely, as the CEY increased from low levels, the GHL also would increase in the same step–wise manner. However, regardless of how high the total CEY may rise above its 1999 through 2000 average, the GHLs were not designed to increase above their maximum amounts.

Annually in October, the Alaska Department of Fish and Game (ADF&G) informs the Council and IPHC of the guided (charter vessel) and non–guided sport harvest of halibut in Areas 2C and 3A during the previous year. These estimated harvests are based on a survey of anglers who report numbers of fish harvested and the estimated average weight of fish harvested in each sport fishery. Because the sport harvest in one year is estimated and reported in the following year, the Council does not know the amount of the sport harvest of halibut in a particular year until close to the end of the following year.

Charter vessel harvests of halibut have steadily increased in recent years especially in Area 2C and to a lesser extent in Area 3A. Sport fishing statistics from ADF&G for Area 2C indicate an annual increase in charter vessel halibut harvests from 0.939 million pounds in 1999 to 1.952 million pounds in 2005. In 2006, the Area 2C harvest declined 7.6 percent to 1.804 million pounds. In 2007, the most recent year of charter vessel harvest estimates, however, the Area 2C harvest increased again by 6.3 percent to 1.918 million pounds. The GHL for Area 2C was first implemented in regulations in 2003 at 1.432 million pounds, and remained at that amount through 2007. The charter vessel harvest of halibut in Area 2C in 2003 was 1.412 million pounds, slightly under the GHL. However, the annual harvest in the following four years (2004 through 2007) averaged 1.856 million pounds, 0.424 million pounds or about 30 percent in excess of the GHL.

Charter vessel harvests of halibut in Area 3A during the same time period (1999 through 2007) indicate a slower but steady growth since 2003 when the Area 3A GHL was first implemented at 3.65 million pounds. The harvest in 2003 was 3.382 million pounds. This amount was under the GHL, but harvests the following four years (2004 through 2007) averaged 3.756 million pounds. This annual average harvest in the most recent four years of charter vessel harvest statistics is slightly less than three percent above the GHL for Area 3A. In 2007, the Area 3A harvest increased to 4.002 million pounds which exceeded the GHL for this area by 9.6 percent.

Although the charter vessel halibut fishery in Area 3A has been at or slightly above its GHL, the Area 2C fishery clearly has been exceeding its GHL in recent years. A management response to the excess halibut harvests in Area 2C was initiated in 2007 by the IPHC, NMFS, ADF&G, and subsequently by the Council. At its annual meeting in January 2007, the IPHC adopted a motion to recommend reducing the daily bag limit for anglers on charter vessels in Areas 2C and 3A from two halibut to one halibut during certain time periods. Specifically, for Area 2C, the IPHC recommended that the one–fish daily bag limit should apply to charter vessel anglers from June 15 through July 30. The IPHC recommended this temporary bag limit reduction because it believed its management goals were at risk by the magnitude of the charter halibut harvest in excess of the GHL, especially in Area 2C. The IPHC's action was not explicitly designed to manage the charter fishery to the Council's GHLs but rather to initiate some control on what appeared to be an ever increasing charter vessel harvest.

In a letter to the IPHC on March 1, 2007, the Secretary of State, with concurrence from the Secretary, rejected the recommended one–fish daily bag limit in Areas 2C and 3A, and indicated that appropriate reduction in the charter vessel harvest in these areas would be achieved by a combination of ADF&G and NMFS regulatory actions. For Area 2C, the State of Alaska Commissioner of Fish and Game (State Commissioner) issued an emergency order to prohibit retention of fish by charter vessel guides and crew members (No. 1–R–02–07). This emergency order was similar to one issued for 2006. This action was intended, in conjunction with other measures to be implemented by the Secretary, to reduce the 2007 charter vessel harvest of halibut to levels comparable to the IPHC–recommended bag limit reduction which was estimated to range from 397,000 (180.1 mt) pounds to 432,000 pounds (195.9 mt).

Regulatory action to remedy this problem by June 2007, the seasonal beginning of the principal sport fishing effort, required the Secretary, through NMFS, to develop regulations independent of the Council process. The preferred alternative selected by NMFS maintained a two–fish daily bag limit provided that at least one of the harvested halibut has a head–on length of no more than 32 inches (81.3 cm). If a charter vessel angler retains only one halibut in a calendar day, that fish may be of any length. NMFS published regulations implementing this partial maximum size limit on June 4, 2007 (72 FR 30714).

The Council also during the first half of 2007 was considering management alternatives for the charter vessel halibut fishery in Area 2C. Unlike the IPHC, ADF&G, and NMFS actions, however, the Council's alternatives were designed specifically to maintain the charter vessel fishery to its GHL. In June 2007, the Council adopted a preferred alternative that contained two options. The Council recommended that the selection between the options should depend on whether the CEY decreased substantially for 2008. As explained above, the GHLs for Area 2C and 3A are linked to the total CEY determined annually by the IPHC as a basis for setting the commercial fishery catch limits in these areas. A sufficient decrease in the total CEY causes the GHL for Area 2C to decrease from its previous level. The Council did not know in June 2007 how the GHL would be affected by IPHC action in January 2008. Hence, the Council recommended a suite of charter vessel fishery restrictions if the GHL in Area 2C were to remain the same in 2008 (Option A) and a different, more restrictive, suite of restrictions if the GHL were to decrease in 2008 (Option B). The Council recommended no change in management of the charter vessel fishery in Area 3A because that fishery appeared stable at about its GHL. A proposed rule was published December 31, 2007 (at 72 FR 74257) soliciting comments on both options for management of the charter vessel fishery in Area 2C

At its annual meeting in January 2008, the IPHC set the 2008 total CEY for Area 2C at 6.5 million pounds (2,948.4 mt). This was a 4.3 million pound (1,950.4

mt) reduction from the 2007 total CEY of 10.8 million pounds (4,899.0 mt), which triggered a reduction in the Area 2C GHL to 931,000 pounds (422.3 mt). This reduction in the GHL compelled selection of the more restrictive Option B for the Area 2C final rule. Option B imposed a daily bag limit of one halibut for each charter vessel angler, prevented charter vessel guides, operators and crew from harvesting halibut, restricted the number of lines used to fish for halibut on a charter vessel, and added certain recordkeeping and reporting requirements. These regulations were published in the Area 2C final rule on May 28, 2008 (73 FR 30504) that was effective on June 1, 2008.

The May 28, 2008, final rule was enjoined by U.S. District Court for the District of Columbia on June 10, 2008, (see Order Granting Plaintiffs' Motion for a Temporary Restraining Order (TRO), dated June 11, 2008, and Order Granting Plaintiffs' Motion for a Preliminary Injunction (PI), dated June 19, 2008, *Van Valin, et al. v. Gutierrez*, Civil Action No. 1:08–cv–941). Instead of the one–halibut daily bag limit contained in the May 28, 2008 rule, the court ordered that the previous (2007) rule become effective, which allowed a two–fish daily bag limit provided that at least one of the harvested halibut had a head–on length of no more than 32 inches (81.3 cm).

In its Order Granting the Plaintiffs' Motion for a Preliminary Injunction, dated June 19, 2007, the U.S. District Court determined that the Plaintiffs had met the burden for granting a preliminary injunction, including demonstrating a likelihood of success on the merits of their claims. The Plaintiffs argued that NMFS, by referencing the 2003 GHL rule (68 FR 47256, August 8, 2003) in the May 28, 2008, final rule, bound itself to use certain procedures found in the preamble to the 2003 GHL rule, including the requirement that a GHL had to be exceeded in order for management measures to be implemented. Although such a result arguably could be read into the rulemaking discussion found in the preamble to the 2003 GHL rule, as evidenced by the U.S. District Court's granting of the TRO and PI, NMFS specifically repudiates such a ''policy.''

To further clarify NMFS' position on repudiating the above policy, NMFS subsequently withdrew the May 28, 2008, rule that was the basis for the *Van Valin* lawsuit (73 FR 52795), and on December 22, 2008, proposed a separate rulemaking to implement the one fish daily bag limit (73 FR 78276). This new proposal would give effect to the Council's intent to keep the harvest of charter vessel anglers as close to the established GHL as the Council's proposed management measures will allow.

This brief history of management of the charter vessel fishery for halibut demonstrates its contentiousness. Charter vessel operators and anglers strongly resist anything more restrictive than a two–fish daily bag limit, but open access in the charter vessel fleet has resulted in virtual unlimited increases in charter halibut harvests. The IPHC balances such increases by decreases in the commercial halibut catch limit. To assure the future productivity of the halibut resource, the IPHC must maintain the total halibut harvest within the total CEY. The limited access program recommended by the Council and proposed by this action is designed to be a step toward establishing a comprehensive program of allocating the halibut resource between the commercial and charter vessel fisheries.

Limited Access Management for the Charter Vessel Fishery

A problem statement adopted by the Council to guide its decision making during the 1995 through 2000 period cited as a concern the overcrowding of productive halibut grounds due to the growth of the charter vessel sector as a concern. In April 1997, during its initial review of an analysis of management alternatives, the Council added a potential cut–off date or ''control date'' of April 15, 1997—a date after which new entrants into the charter vessel fishery are not assured of qualifying for participation under a moratorium on new entry or other limited access program. The next time the Council considered charter vessel management issues was in September 1997. At that meeting, however, it backed away from further development of a limited access policy and instead recommended improved recordkeeping and reporting requirements and a GHL for Area 2C and 3A designed to give the charter vessel fleet 125 percent of its 1995 harvest in each of these areas.

The Council revisited limited access management for the charter vessel fishery for halibut in February 2000. At that meeting the Council made a final decision on its GHL policy. It also (a) established a committee to develop a program that would integrate the charter vessel fishery into the existing IFQ program for the commercial fishery, and (b) decided not to proceed with a moratorium for the charter vessel fishery in Areas 2C and 3A in deference to the State of Alaska developing localized moratoria within the local area management plan process. In April 2000, the Council unanimously decided to begin analysis of alternatives for integrating the charter vessel fishery into the commercial IFQ program. The Council also accepted its committee's recommendation that the new charter/commercial IFQ program would replace the GHL program but clarified that the GHL program must be implemented first.

In February 2001, the Council revised its problem statement for expansion of the IFQ program to charter vessels and added a moratorium alternative to the analysis, among other changes. Finally, in April 2001, the Council adopted the IFQ program alternative for the charter vessel fishery, culminating eight years of debate and Council consideration of ways to manage the guided sport charter vessel fishery for halibut. The pool of halibut that would be allocated under the charter IFQ program was to be the same as the GHL—that is 125 percent of the 1995 through 1999 average harvest.

In June 2001, however, the State of Alaska representative on the Council notified the Council of the State's intention to move to rescind the Council's April 2001 action. The motion to rescind was made and considered by the Council at its October 2001 meeting and it failed. The State's objections were based in part on its concerns about the State charter vessel logbook data on which initial allocations of charter vessel fish to individual operators in the charter vessel sector would be based. The State was concerned that data from its 1999 and 2000 charter vessel logbooks did not accurately reflect halibut harvest and should not be used in any management decision–making process. After months of additional analysis by the State and review by the Council's Scientific and Statistical Committee (SSC), the Council, in January 2003, accepted its SSC report that the charter vessel logbook data were suitable as a basis for determining eligibility and initial allocation of charter vessel quota shares.

In August 2003, NMFS published a final rule implementing the Council's recommended GHL policy (68 FR 47256, August 8, 2003). Following the Council's request to implement its GHL policy before its IFQ policy, NMFS developed regulations and administrative systems to integrate the charter vessel fishery into the commercial IFQ program. After extensive development and review of a proposed rule for the IFQ program during 2003 and 2004, NMFS sought confirmation of the Council's continued support for the program. In a letter to the Council dated August 3, 2005, the

NOAA Assistant Administrator for Fisheries requested the Council to confirm its 2001 decision to incorporate the charter vessel sector into the commercial IFQ program. In December 2005, after two days of hearing public testimony, the Council failed to confirm its 2001 decision. The Council decided, however, to create a charter halibut stakeholder committee to examine a suite of options proposed by the State of Alaska representative on the Council. In addition, the Council established a new control date of December 9, 2005, to notice the charter vessel industry that anyone entering the fishery after the control date would not be assured of future access should a moratorium or other limited access system be developed and implemented that limits participants in the charter vessel halibut fishery.

In April 2006, the Council initiated an analysis for a moratorium on the entry of new participants in the charter vessel fishery for halibut in Areas 2C and 3A using the December 9, 2005 control date. A year later on March 31, 2007, the Council adopted a moratorium motion to recommend to the Secretary. The motion is available at *http://www.fakr.noaa.gov/npfmc/current__issues/halibut__issues/CharterHalibutMotion307.pdf*. The essence of the proposed moratorium is to limit entry in the charter vessel fishery to charter halibut permit holders. The moratorium is a limited access system in which permits would be initially limited to those businesses that have historically and recently participated in the fishery according to certain criteria. The following describes these proposed criteria, conditions for transfer of permits, and other aspects of the program in detail.

The Proposed Action

This action proposes regulations that would limit the entry of additional charter vessels into the guided sport fishery for Pacific halibut in waters of IPHC Regulatory Areas 2C (Southeast Alaska) and 3A (Central Gulf of Alaska). For purposes of this action, a charter vessel is a vessel that is registered, or should be registered, as a sport fishing guide vessel with the Alaska Department of Fish and Game. This definition is consistent with the current definition of ''charter vessel'' at 50 CFR 300.61. If approved, any person operating a charter vessel engaged in halibut fishing in Area 2C or Area 3A would be required to have on board the vessel a charter halibut permit designated for that area.

A charter halibut permit would be issued to an applicant based on the applicant's participation in Area 2C or Area 3A during the qualifying period and recent participation period. Qualifications for a permit in each area would be determined independently. To receive a permit endorsed for Area 2C, NMFS would only examine that applicant's participation in Area 2C. To receive a permit endorsed for Area 3A, NMFS would only examine that applicant's participation in Area 3A. A charter halibut permit would be transferrable or not transferrable based on certain minimum participation criteria. Each permit would have an angler endorsement that specifies the maximum number of anglers authorized to catch and retain halibut under the authority of the permit under which the vessel is operating.

This action also proposes two special permits: a community charter halibut permit and a military charter halibut permit. A community charter halibut permit would be issued to a Community Quota Entity (CQE) as defined at 50 CFR 679.2. A military charter permit would be issued to a United States Military Morale, Welfare and Recreation (MWR) Program. The unique features of these permits are described below.

Qualifications for Charter Halibut Permit

The Council recommended participation requirements for permit qualification that take into account historic participation during a qualifying period and during a recent participation period. Participation during both periods would demonstrate a qualifying dependence on the charter vessel fishery for halibut. Charter halibut permits would be awarded only to persons who participated as owners of a charter halibut business that was licensed by the ADF&G. The proposed rule would adopt the Council's recommendation and award permits to applicants that participated as ADF&G licensed fishing guide business owners in a qualifying period and a recent participation period.

Qualifying period and recent participation period. The qualifying period would be the sport fishing season established by the IPHC in 2004 and 2005. The sport fishing season in both of those years was February 1 through December 31. The recent participation year would be the year prior to implementation of this proposed action. In recommending this action, the Council was not certain exactly what year this proposed action, if approved, would be implemented; hence, the year prior to that also was unknown.

The Council contemplated that the year prior to implementation could be 2007 or 2008. If approved, the final rule for this action will specify the year prior to implementation and the rationale for that specification. In specifying this year, NMFS will take into account the most recent year for which data are available, among other things. This proposed rule does not attempt to define the start of the program and thereby the year prior to it, but instead refers to the Council's ''year prior to implementation'' as the ''recent participation period'' or ''recent participation year.'' Hence, the proposed rule text that follows does not specify the recent participation year. That specification will occur in the final rule, pending approval of this action.

To qualify for a permit, an applicant would have to have reported at least five logbook trips during the qualifying period and five logbook trips during the recent participation period. The Council wanted to ensure that permits went only to persons who were active in the charter halibut fishery at or above a minimal level in both periods. The Council concluded that a five–trip level of participation showed active participation in the charter halibut fishery. The purpose of requiring active participation in both periods is to make sure that the applicant is an historical participant and a recent participant in the charter halibut fishery. The Council did not intend a permit to be issued to an applicant to operate in this fishery unless the applicant met both criteria. Thus, an applicant that operated a charter halibut fishing business during the recent participation period, but not the qualifying period, would not qualify for a charter halibut permit. Conversely, an applicant that operated a charter halibut fishing business during the qualifying period, but not the recent participation period, would not qualify for a charter halibut permit.

Charter halibut permits would not be awarded to persons who purchased a charter fishing business that met some or all of the participation requirements but who themselves do not meet the participation requirements. The Council did not recommend that NMFS award permits based on business purchase agreements and therefore it did not analyze criteria to recognize such agreements. Hence, NMFS does not propose to recognize private agreements for the following reasons: (a) the Council did not recommend this policy; (b) a person who met all the participation requirements for a transferable permit could apply for the permit and transfer it to another person, if that is required by their private agreement; (c) a person who meets only the requirements for a nontransferable

permit, should not be able to transfer that permit; and (d) awarding a permit based on one person meeting the participation requirements in the qualifying period and another person meeting the participation requirements in the recent period would increase the total number of permits which would be contrary to the Council's intent. NMFS concluded that if one person did not participate in both periods—the qualifying period and the recent participation period—that person should not receive a charter halibut permit in the initial award of permits. To enter the fishery, that person would have to buy a permit from a person that met the participation requirements in both periods.

Number of permits. If an applicant for a charter halibut permit meets the minimum participation requirements during a qualifying year and the recent participation year, NMFS would determine how many permits the applicant would receive and how many of those, if any, would be transferable permits.

If an applicant qualified for any permits, NMFS would issue to the applicant the number of permits equal to (a) the applicant's total number of bottom fish logbook fishing trips in a qualifying year, divided by 5, or (b) the number of vessels that made those trips, whichever number is lower. The Council recommended that the number of permits issued to a charter fishing business would be ''based on the number of trips summed for all vessels in [its] best year of the qualification period.'' Further, ''[a] business would be limited to the number of permits equal to the highest number of vessels used in any one year during the qualifying period.'' NMFS interprets this to mean that the number of permits would be the number of bottomfish logbook trips in 2004 or 2005 divided by five or the number of charter vessels operated by a business during 2004 or 2005, whichever number is lower. The applicant would select which year in the qualifying period—2004 or 2005—NMFS would use.

A conservative interpretation is reasonable because an objective of limited access programs, including this one, is to reduce the amount of fishing effort in a fishery. Hence, NMFS would issue the number of permits equal to the lesser of (a) bottom fish logbook fishing trips divided by five (the minimum number of trips to qualify for a non–transferable permit) or (b) the number of charter vessels that made those trips in one of the qualifying years.

Although the Council motion refers to an applicant's ''best year of the qualification period,'' the Council was silent on how an applicant's ''best year'' is determined. NMFS proposes that the applicant should select its best year. Thus, the proposed rule uses the term ''applicant–selected year'' rather than the applicant's ''best year.'' The ''applicant–selected year'' means the year in the qualifying period—2004 or 2005—that the applicant selects for NMFS to use in determining how many permits the applicant will receive and whether the permits will be transferable or non–transferable. NMFS proposes that the applicant select the applicant's best year because applying the rules for the number of permits and transferable permits could have different results. For example, an applicant may receive a greater number of permits using the applicant's participation in one year but a greater number of transferable permits using the applicant's participation in another year. Because the year selected could make a difference, the applicant should choose which outcome is more important to the applicant.

To determine the number of permits an applicant may be awarded and whether those permits are transferable or nontransferable, NMFS would create the official charter halibut record. This record would contain the information about participation in the charter halibut fishery that NMFS would use to evaluate applications for charter halibut permits. NMFS would derive the official record from ADF&G logbook records. For each applicant, NMFS would make two determinations for each of the two qualifying years based on the official record. First, NMFS would determine the number of trips that the applicant reported, divide that number by five, and round it down to the nearest whole number. Second, NMFS would determine the number of vessels that made those trips. NMFS would then inform the applicant of these numbers for the years 2004 and 2005.

The applicant would select 2004 or 2005 as the year that NMFS should use to determine the applicant's permits. Using the applicant–selected year, NMFS would award the applicant the number of permits that is equal to the lower of the first determination—the total number of trips reported in the applicant–selected year, divided by five and rounded down to the nearest whole number, or the second determination—the number of vessels that made those trips in the applicant–selected year. For example, an applicant in its selected qualifying year reported 23 logbook trips using three vessels. One vessel made 16 trips, another vessel made five trips, and another vessel made only two trips. Under the proposed rule, NMFS would calculate $23 \div 5 = 4.6$ which would be rounded down to four. But this number of permits would be limited by the number of vessels that made all the logbook trips in the applicant–selected year which was three. Hence, the applicant would be awarded three permits.

A limit on the number of permits equal to the number of vessels used in the applicant–selected year is necessary to prevent expansion in the number of vessels that could operate in the charter halibut fishery if this program were approved. If the number of permits were based only on the number of trips divided by five, the number of vessels could exceed the number of vessels that participated before adoption of this limited access program, which would be antithetical to the purposes of this program.

Designation of transferable permits. After determining the total number of permits, NMFS would determine which permits are transferable and which are nontransferable. An applicant would receive a transferable permit for each vessel that made at least 15 trips in the applicant–selected year and at least 15 trips in the recent participation year. The rest of the applicant's permits, if any, would be non–transferable permits.

Under the proposed rule, NMFS would issue to an applicant the number of transferable permits equal to the number of vessels that made at least 15 logbook fishing trips or more in the applicant–selected year and at least 15 trips in the recent participation year. Applicants that do not have the minimum of 15 logbook fishing trips in each period but qualify for one or more permit(s) with a minimum of five logbook fishing trips, would receive only non–transferable permit(s). Hence, in the example above of an applicant with 23 logbook trips using three vessels, that applicant would receive three permits. Based on the 15–trip minimum criterion, however, this applicant would receive only one transferable permit and the other two permits would be non–transferable.

This two–tiered qualification criterion would create two types of permits: a nontransferable permit that would cease to exist when the entity that holds the permit no longer exists and a transferable permit that would have value as an asset that could be transferred to another business when the permit holder decided to leave the fishery. The Council recommended transferable permits to establish a market–based system of allocating access to the fishery after the initial allocation of permits. Persons wanting to enter the charter halibut fishery could

obtain permits from persons leaving the fishery. The Council concluded this would be more reasonable and efficient than a continual permit–application–and–permit–award process by the government. But the Council did not recommend that all permits be transferable. The Council recommended two types of permits—transferable and non–transferable—as proposed by this action.

This part of the Council's recommendation reflects a balance of the Council's objective to reduce fishing effort and its objective to minimize disruption to the charter fishing industry. Requiring a high minimum number of logbook fishing trips would result in a sudden reduction of charter halibut operations because many existing charter vessel operators would not be able to qualify. On the other hand, requiring a low minimum number of logbook fishing trips would result in little or no reduction in potential harvesting capacity. The two–tiered qualification criterion is designed to allow a business with relatively less participation in the charter halibut fishery to continue its operation while reducing potential harvesting capacity over time by not allowing that permit to be transferred to another entity.

Angler endorsement on permits. Each charter halibut permit would have an angler endorsement number. The angler endorsement number on the permit would be the maximum number of anglers who are catching and retaining halibut that a vessel operator can have on board the vessel. The angler endorsement would not limit the number of passengers that a charter vessel operator could carry, only the number who may catch and retain halibut.

The Council recommended that the angler endorsement number on an applicant's permits would be the highest number of clients that the applicant reported on any logbook fishing trip in 2004 or 2005, subject to a minimum endorsement of four. The proposed rule adopts that recommendation, except that it uses the term ''angler'' rather than ''client.'' The term ''angler'' includes all persons, paying or non–paying, who use the services of the charter vessel guide. The charter halibut permit, once issued, would limit the number of charter vessels anglers—paying or non–paying persons who use the services of a charter vessel guide—who can catch and retain halibut. Thus, under the proposed rule, the ''angler endorsement number'' on the permit would be the highest number of anglers who caught and retained halibut reported on any of the applicant's logbook fishing trips in 2004 or 2005.

A vessel operator would be able to stack permits. For example, if a vessel operator has two charter permits on board, one with an angler endorsement of four and one with an endorsement of six, then the vessel operator could have a maximum of 10 charter vessel anglers on board who are catching and retaining halibut if the operator is otherwise authorized to carry 10 passengers. If other provisions of law, such as safety regulations or operation for hire regulations, prevent 10 anglers from being on board the vessel, the charter halibut permits would not allow the vessel operator to violate those provisions of law.

The rationale for the proposed angler endorsement is that this proposed action is designed to limit the number of charter vessels participating in the charter halibut fishery; not to prevent all expansion of effort by charter vessel operators. This provision allows permit holders to increase their effort somewhat by increasing the number of anglers that permit holders take on some charter vessel fishing trips, assuming that vessel operators did not take their historical maximum number of anglers out on every trip in the qualifying period. This expansion would be constrained by factors such as the maximum number of anglers recorded in an ADF&G logbook during 2004 or 2005, the size of the charter vessel using the permit, the market for charter trips, and any safety or other regulations that limit the number of anglers that may be on board a vessel.

The rationale for the minimum angler endorsement number of four, regardless of a lower number reported for an applicant's logbook fishing trip, is that this provision would not increase the number of permits in the fishery, and an angler endorsement of less than four may not allow economically viable fishing trips.

The applicant–selected year, as it is described above, would not apply to the determination of angler endorsements for the number and type of permits. NMFS would endorse the permits with an angler endorsement number equal to the highest number of anglers on any of the applicant's logbook trips in 2004 or 2005, except as noted above for a minimum angler endorsement. This would be consistent with the Council's motion. Thus, the applicant's selected year—2004 or 2005—that NMFS would use to determine the number and type of permits may not be the same year that NMFS would use to determine the angler endorsement number on those permits. For example, an applicant may select 2004 for purposes of determining the number and type of permits, but the highest number of anglers recorded on any trip during the qualification period may have occurred in 2005. In this case, NMFS would award the applicant the number and type of permits based on the applicant's 2004 trips and would endorse the permits with an angler endorsement number based on a 2005 trip.

Standards for Initial Allocation

A person would be required to meet several basic standards to initially receive a charter halibut permit. These standards include (a) timely application for a permit, (b) documentation of participation in the charter vessel fishery during the qualifying and recent participation periods by ADF&G logbooks, and (c) ownership of a business that was licensed by the State of Alaska to conduct the guided sport fishing reported in the logbooks.

Timely application. The application process is discussed more fully below; however, a basic standard for eligibility to receive an initial charter halibut permit would be to apply for the permit during an application period. An application period of no less than 60 days would be announced in the **Federal Register**. Applications submitted by mail, hand delivery, or facsimile would be accepted if postmarked or hand delivered or faxed no later than the last day of the application period. Electronic submissions other than facsimile would not be acceptable.

Logbook documentation. The documentation to prove qualifying participation in the charter vessel fishery would be limited to saltwater charter vessel logbooks issued by the ADF&G. There are several reasons for relying only on the ADF&G charter vessel logbook database. First, ADF&G has regulated saltwater charter fishing in the State of Alaska through registrations, licenses, and logbooks since 1998. These requirements apply to all charter fishing, including vessels targeting halibut. Although ADF&G regulations use the term ''sport fishing services,'' the business activity that ADF&G regulates is essentially the same as the guided sport charter vessel fishery for halibut that is the subject of this proposed rule. Second,ADF&G supplied aggregated charter vessel logbook data to the Council to assist it in its analysis of past participation in the charter halibut fishery in Areas 2C and 3A. Third, the Council relied on these data in part to make its decision to recommend limiting entry into this fishery and NMFS, in turn, has relied on

the Council's analysis of alternatives to approve publication of this proposed rule.

The basic unit of participation for receiving a charter halibut permit would be a logbook fishing trip. As defined in the proposed rule, a ''logbook fishing trip'' would be a bottom fish logbook fishing trip during the qualifying years, 2004 and 2005, and a halibut logbook fishing trip in the recent participation year. A logbook fishing trip would be an event that was reported to ADF&G in a logbook in accordance with the time limit required for reporting such a trip that was in effect at the time of the trip. The required time limit differed in minor ways in 2004, 2005, 2007, and 2008, and depended on when the trip occurred; however, the latest date for reporting a trip was January 15 of the year after it occurred. If a trip was not reported within those time limits, NMFS would not consider it a logbook fishing trip for purposes of this proposed rule, and it would not serve as the basis for NMFS to issue a charter halibut permit. Hence, a permit applicant could not add a trip to the official record years after the trip should have been reported to the State.

The proposed rule, like the Council's preferred alternative, relies on the same method of counting trips that was used in the Council's analysis. In the analysis, each trip in a multi–trip day counts as one logbook trip, and each day on a multi-day trip counts as one logbook trip. For example, a business owner who had two trips in one day would be considered to have had two logbook trips. Another business owner that had a trip that lasted two days also would be considered to have had two logbook trips. This accounting of trips deviates from the ADF&G method of counting logbook trips when fishing continues over multiple days. ADF&G required a business that took anglers on a multiday trip to submit logbook information at the end of the trip, not at the end of the day. Hence, a trip could represent different measures of effort depending on the number of days a charter vessel fished with the same group of anglers. The Council analysis standardized the measure of effort of a trip by separating each day fished on a multi-day trip and counted each day as a trip. The Council relied on its analysis in adopting its preferred alternative. Therefore, the proposed rule is based on the same method of counting trips that was used in the analysis.

The same issue does not exist for half-day trips. ADF&G required business owners to submit a logbook trip entry after a half-day trip. Hence, ADF&G logbook data, the Council's analysis, and the proposed rule count a half day trip as one trip.

This action proposes additional definitions for a ''bottomfish logbook fishing trip'' and a ''halibut logbook fishing trip.'' To document participation in 2004 and 2005, an applicant must prove bottomfish logbook fishing trips, and to prove participation in the recent participation year an applicant must prove halibut logbook fishing trips. The Council anticipated the distinction between these terms in its moratorium motion. The reason for this distinction is that in 2004 and 2005, ADF&G did not require businesses to report the number of halibut that were kept, or kept and released, for each logbook fishing trip. In 2004 and 2005, ADF&G required businesses to report bottomfish effort for each logbook fishing trip. The bottomfish effort data was (1) the State statistical area where bottomfish fishing occurred, (2) the boat hours that the vessel engaged in bottomfish fishing and (3) the number of rods used from the vessel in bottomfish fishing. ADF&G attached instructions to each logbook that stated that bottomfish fishing effort included effort targeting halibut. Therefore, for purposes of this action, NMFS would count any of these three types of bottomfish information about a trip in the qualifying period as a bottomfish logbook fishing trip for purposes of qualifying for one or more permit(s). As with the reporting of the trip itself, the business owner would have had to report these data within ADF&G time limits. An applicant could not change or add data that would make a trip a bottomfish logbook fishing trip or halibut logbook fishing trip after the trip should have been reported to ADF&G.

In 2006, ADF&G changed its required logbook report to specify halibut data for each logbook fishing trip. The required logbook data included the number of halibut kept, the number released, and the boat hours that the vessel engaged in bottomfish fishing. Because these data will be more specific to halibut in the recent participation year, NMFS intends to rely on the halibut logbook data as proof of an applicant's participation during the recent participation year. If a business owner, within ADF&G time limits, reported to ADF&G the number of halibut kept or caught and released, NMFS would count that trip as a halibut logbook fishing trip and the trip would count toward the applicant's participation requirement in the recent participation year.

A halibut logbook fishing trip also could be a trip where the business owner, within ADF&G time limits, reported ''boat hours that the vessel engaged in bottomfish fishing.'' An applicant could use such a report as one way to document a halibut logbook fishing trip. The logbook data for ''boat hours'' that a business had to report in 2007 and 2008 was ''No. of Boat Hours Fished this Trip'' with bottomfish as a targeted species. ADF&G instructions for the 2007 and 2008 logbooks state that bottomfish include halibut. Documentation of boat hours fishing for bottom fish would capture trips where charter vessel anglers were targeting halibut but did not catch any. Therefore, this action proposes to define a halibut logbook fishing trip as a logbook fishing trip in which the applicant reported the number of halibut kept or released or the boat hours that the vessel engaged in bottomfish fishing.

Licensed business owner. Charter halibut permits would be issued to the ADF&G licensed business owner. The Council's moratorium recommendation and this action propose eligibility for a charter halibut permit to be limited to the holder of an ADF&G business owner license because information on participation in the charter vessel fishery for halibut is organized by this license. Hence, a person would not meet this standard and qualify for a charter halibut permit if he or she held only a guide license or owned a charter vessel but did not hold an ADF&G business owner license during the qualifying and recent participation years.

Issuing charter halibut permits only to qualified holders of ADF&G business owner licenses is appropriate for several reasons. First, the owner of the charter vessel fishing business had to obtain a business owner license from ADF&G. Second, the business owner was required to register with ADF&G the vessel to be used as a charter vessel. Third, the ADF&G business owner license number was required to be recorded on each sheet of the logbook because this license authorized the guide to provide fishing guide services to the charter vessel anglers. Finally, the business owner was responsible for submitting the logbook sheets to ADF&G within the required time limits. In summary, every charter vessel fishing trip was authorized by, and made pursuant to, an ADF&G business owner license. This license has been variously referred to as a sport fishing operator license, a sport fish business owner license, an ADF&G sport fish business license, or simply an ADF&G business license. This action proposes the term ''ADF&G business owner license'' exclusively to refer to this license issued by ADF&G.

Application and Issuance Process

As noted above, an application period of no less than 60 days would be officially announced in the **Federal Register**. NMFS would use other media in addition to the **Federal Register** to announce the application period and encourage potential applicants to submit applications for charter halibut permits. A finite application period of reasonable length is necessary to resolve potential claims for permits by two or more persons for the same logbook fishing trip history. NMFS would not credit the same logbook fishing trip to more than one applicant, and would not allow the participation history of one business owner to support issuance of a permit(s) to more than one applicant.

Application forms would be available through ADF&G and NMFS offices and on the NMFS, Alaska Region, web site at *http://www.alaskafisheries.noaa.gov/*. Electronic submission of the application would not be acceptable, however, because a signature on the application would be required. The application form would include a statement that, by signature, the applicant attests that legal requirements were met and all statements on the application are correct under penalty of perjury.

Official record. Before the start of the application period, NMFS would create an official record of charter vessel participation in Area 2C and 3A during the qualifying and recent participation years. The official record would be based on data from ADF&G because the State of Alaska has regulated charter fishing in the past and has the data on past participation in the charter halibut fishery. The official record would link each logbook fishing trip to an ADF&G business owner license and to the person—individual, corporation, partnership or other entity—that obtained the license. Thus, the official record would include information from ADF&G on the persons that obtained ADF&G Business Owner Licenses in the qualifying period and the recent participation period; the logbook fishing trips in those years that met the State of Alaska's legal requirements; the business owner license that authorized each logbook fishing trip; and the vessel that made each logbook fishing trip.

NMFS would compare all timely applications to the official record. If an applicant submits a claim that is not consistent with the official record, NMFS would allow the applicant to submit documentation or further evidence in support of the claim during a 30-day evidentiary period. If NMFS accepts the applicant's documentation as sufficient to change the official record, NMFS would change the official record and issue charter halibut permit(s) accordingly. If NMFS does not agree that the further evidence supports the applicant's claim, NMFS would issue an initial administrative determination (IAD). The IAD would describe why NMFS is initially denying some or all of an applicant's claim and would provide instructions on how to appeal the IAD.

Appeals. An applicant may appeal the IAD to the Office of Administrative Appeals (OAA) pursuant to 50 CFR 679.43. NMFS would issue interim permits to applicants that filed timely applications and whose appeal is accepted by OAA. All interim permits would be non–transferable. NMFS would limit interim permits on appeal to applicants who applied for charter halibut permits within the application period specified in the **Federal Register**. This means that an applicant that is denied a permit because its application was late would not receive an interim permit. This limitation is necessary for NMFS to know the universe of applications at the end of the application period. The grounds for treating a late application as timely filed are extremely narrow. Hence, NMFS would not issue an interim permit to an applicant that filed a late application if that applicant has an extremely limited chance of prevailing on appeal.

When an appeal is accepted by OAA, interim permits would be issued as follows. If, according to the official record, the applicant should receive no permits, the applicant on appeal would receive one interim permit with a angler endorsement of four. If, according to the official record, the applicant on appeal should receive some permits, the applicant on appeal would receive the number of permits and the angler endorsement number on those permits that are substantiated by the official record as it exists when the applicant appeals, not the number and types of permits that applicant claims on appeal.

All permits issued during an appeal would be interim, non–transferable, permits. Until NMFS makes a final decision on the appeal, the permit holder would not be able to transfer any permits. Potentially, a recalculation of one variable for an applicant could result in a redetermination of the number and type of permits. For example, if, as a result of an appeal, an applicant selects 2004 as its best year rather than 2005, NMFS would recalculate an applicant's number of permits or type of permits. Making permits that are under appeal non–transferable until the appeal is resolved would prevent an applicant from transferring a permit for which it ultimately may not qualify. This is necessary to prevent undermining the purpose of the proposed limited access system.

Issuance to business owners. As noted above, charter halibut permits would be issued to persons that were the ADF&G licensed business owners that met the minimum qualifications. The term ''person'' includes an individual, corporation, firm, or association (50 CFR 300.61). If a corporation held the ADF&G business owner license that authorized the logbook fishing trips that met the participation requirements for a charter halibut permit, NMFS would issue the permit to the corporation. If a partnership held the ADF&G business owners license, NMFS would issue the permit to the partnership. If an individual held the ADF&G business owners license, NMFS would issue the permit to that individual. Hence, on successful application, NMFS would issue a charter halibut permit to the entity—individual, corporation, partnership or other entity—that held the ADF&G business owner license that authorized the logbook fishing trips that met the participation requirements. NMFS would have no obligation to determine the owners of a corporation or members of a partnership that successfully applied for a permit. NMFS would follow the form of ownership—individual or otherwise—that the business used to obtain legal authorization from the State of Alaska for its past participation in the charter halibut fishery.

Generally, the entity that applies for one or more charter halibut permits would be the same entity that held the ADF&G business owners license that authorized the trips that met the participation requirements in the qualifying period and in the recent participation period. The only exception to this requirement is if the entity that held these licenses is an individual who has died, or a non–individual entity, such as a corporation or partnership, that has dissolved.

If an individual who met the participation requirements for a charter halibut permit has died, the personal representative of the individual's estate may apply for the permit in place of the deceased individual. The applicant who applies as a personal representative must provide documentation of the individual's death and documentation that the applicant has been appointed by a court as the personal representative of the deceased individual's estate. If the decedent would have received any permits, the personal representative can instruct NMFS as to who, according to

the applicant's duties as personal representative, should receive those permits.

If a non–individual entity, such as a corporation or partnership, met the requirements for a permit but that entity has dissolved, the successors–in–interest to the entity may apply for that permit or permits. The applicant who is applying as a successor–in–interest to a corporation or partnership or other dissolved entity must provide documentation that the entity has dissolved and that the applicant is a successor–in–interest to the dissolved entity. If more than one applicant proves that he or she is a successor–in–interest to the dissolved entity, NMFS would issue the permits for which the dissolved entity qualifies in the names of all applicants that submit timely applications and that prove they are successors–in–interest. For example, a partnership has dissolved and two former partners submit separate and timely applications. If each applicant proves that they are a successor–in–interest to the partnership, NMFS would award the permits in the names of the two successors–in–interest that applied. Similarly, if a corporation qualifies for permits but has dissolved and three former shareholders of the corporation submit timely applications, each proving that they are a successor–in–interest to the corporation; NMFS would award the permits in the names of the three former shareholders. If only two of the three former shareholders submit timely applications, however, NMFS would award the permits in the names of the two former shareholders that submitted timely applications.

NMFS would not determine percentage of ownership of a dissolved partnership or corporation. If a dispute exists among former partners or shareholders as to how they should share ownership of a permit or permits, that dispute is properly resolved as a civil matter by a court.

The proposed rule makes explicit a guiding principle NMFS would apply in evaluating applications for charter halibut permits. The logbook fishing trip activity of one person that is used for permit qualification cannot lead to more than one person receiving a charter halibut permit. The only possible exception is described above, when NMFS might award a permit in the name of several persons who are successors–in–interest to a dissolved entity. Even then, NMFS would not issue multiple permits, but only issue permits in the names of several persons the number of permits for which the dissolved entity qualified. Subject to that exception, the proposed rule prohibits NMFS from crediting the same logbook fishing trip to more than one applicant, from crediting logbook fishing trips made pursuant to the same ADF&G Business Owners License to more than one applicant, and from allowing participation by one person in the charter halibut fishing business to support issuance of permits to more than one applicant.

Unavoidable Circumstances

The Council and NMFS recognize that certain unavoidable circumstances could prevent an applicant from participating in either the qualifying period or recent participation period despite the applicant's intention. In developing a limited exception to allow for unavoidable circumstances, NMFS was guided in part by the unavoidable circumstance provisions in the License Limitation Program (LLP) for groundfish and crab fisheries at 50 CFR 679.4(k). This action proposes similar criteria for an unavoidable circumstance as used in the LLP regulations (50 CFR 679.4(k)(8) and (9)). Basically, an applicant must demonstrate that:

- It participated during either the qualifying period or the recent participation period;
- It had a specific intent to participate in the period, either the qualifying period or the recent participation period, that the applicant missed;
- The circumstance that thwarted the intended participation was (a) unavoidable, (b) unique to the applicant, (c) unforeseen and unforeseeable;
- The applicant took all reasonable steps to overcome the problem; and
- The unavoidable circumstance actually occurred.

Missed recent participation period. An applicant who meets the participation requirements for the qualifying period (2004 and 2005) may claim that it did not meet the participation requirement in the recent participation period year due to an unavoidable circumstance. Assuming the applicant is able to successfully demonstrate that it meets the criteria for an unavoidable circumstance, NMFS proposes to award the applicant the number and type of permits that the applicant would have received if its participation during the recent participation period had been the same as its participation during the qualifying period. The Council did not address this issue. However, NMFS determined that substituting the qualifying period participation for actual participation during the recent participation period best reflects what the Council was trying to achieve by recommending that an unavoidable circumstance exception be included in this program.

Missed qualifying period participation. Similarly, an applicant who met the recent participation requirement may claim that it did not meet the qualifying period (2004 or 2005) participation requirement because of an unavoidable circumstance. Assuming the applicant is able to successfully demonstrate that it meets the criteria for an unavoidable circumstance, NMFS could not use logbook data from the qualifying period to determine the applicant's number of permits, whether the permits would be transferable, or the area and the angler endorsements on the permits, because the applicant would have either no logbook data from the qualifying period or insufficient logbook trips to receive any permits. NMFS proposes that the applicant who proves an unavoidable circumstance in the qualifying period would receive one non–transferable permit with an angler endorsement of four, unless the applicant demonstrates that it likely would have met the participation requirements for more permits, one or more transferable permits, or a higher angler endorsement. In that case, the applicant would receive the number and type of permits, and the angler endorsement on those permits, that result from the level of participation that the applicant demonstrates that it likely would have attained.

The proposed rule, in essence, adopts a default provision for an applicant that successfully demonstrates that it meets the criteria for unavoidable circumstances, namely a non–transferable permit with an angler endorsement of four. This provision, at a minimum, would allow an applicant to participate in the fishery. This provision also would allow an applicant to receive more permits, or transferable permits, or an angler endorsement greater than four, only if the applicant shows that it likely would have participated at that higher level but for the unavoidable circumstance.

For example, if an applicant states that it should receive one transferable charter halibut permit with an angler endorsement of six, then the applicant must show that the applicant likely would have reported at least 15 logbook fishing trips with a vessel in 2004 or 2005 and would have taken six anglers on one of those trips. The applicant would be required to show this by a preponderance of the evidence. This means that the applicant must show that it is more likely than not that it would have met that participation requirement, were it not for the unavoidable

circumstance. In the example, if the applicant experienced an unavoidable circumstance in 2004, the applicant could introduce evidence of its participation in 2003. Or if the applicant already had bookings in 2004, it could introduce evidence of those bookings. These are just examples and are not intended to indicate that any of these submissions would be sufficient to demonstrate unavoidable circumstances.

Limitation on unavoidable circumstance provision. NMFS is proposing that the unavoidable circumstance exception be limited to persons who would be excluded from the fishery entirely unless their unavoidable circumstance was recognized. The unavoidable circumstance exception is not intended to upgrade the number or type of permits an applicant could receive. For example, NMFS would not accept an unavoidable circumstance claim to upgrade a non–transferable permit to a transferable permit based on an anticipated 15 logbook trips in 2005 that did not occur. NMFS concluded that the proposed unavoidable circumstance exception should be narrow, and that, if an applicant could get any charter halibut permit based on the applicant's actual participation, the applicant would be limited to that permit.

Military exemption. This action proposes a military exemption from the participation requirement during the qualifying period. This exception is designed to benefit persons assigned to active military duty in the qualifying period. An applicant for the military exception would have to meet the recent participation requirement, i.e., at least five halibut logbook trips in the recent participation period.

To qualify for a military exemption, a person would have had to be assigned to active military duty as a member of the National Guard or a reserve component. This limitation stems from public testimony to the Council about the need for a military exemption for persons called up to serve during the qualifying period as a member of the National Guard or a reserve component. This exemption would not apply to persons in the regular armed forces. The rational for not including persons in the regular armed forces is that a person's decision to enlist in the regular armed services is a voluntary career choice and is not unavoidable. Hence, such a person serving during the qualifying period chose a military occupation in lieu of a charter vessel occupation. NMFS recently considered a similar issue in the context of allowing a temporary military transfer of IFQ Quota Share and, for similar reasons, only allowed such a transfer by a member of the National Guard or a member of a reserve component (73 FR 28733, May 19, 2008).

In addition, to receive a military exemption, an applicant would have to demonstrate that the applicant intended to participate in the charter halibut fishery and that the applicant's intent was thwarted by the applicant's order to report for military service. The Council motion stated that a military service applicant would have to show intent to participate before the qualifying period. NMFS concludes, however, that the Council did not intend to exclude a military applicant who could show an intent to participate during the qualifying period. Therefore, NMFS would treat an applicant who can show an intent to participate during the qualifying period the same as it would treat an applicant who could show an intent to participate before the qualifying period, as requested by the Council, as long as an applicant could demonstrate their intent to participate was thwarted by their order to report for military service.

The military exemption is designed to benefit persons who would otherwise be completely excluded from receiving any charter halibut permits despite their intention to meet the participation requirement during the qualifying period. If a military exemption applicant could receive any permits based on the applicant's actual participation in the qualifying period, the applicant would be limited to that number and type of permits and could not use the military exemption. An applicant may not claim a military exemption to excuse lack of participation in the qualifying period and an unavoidable circumstance to excuse a lack of participation in the recent participation period.

The proposed rule adopts the Council recommendation that an applicant receiving a permit under the military service exemption receive a charter halibut permit with an angler endorsement of six. The Council was silent, however, as to whether the permit should be transferable or non–transferable. This action proposes to treat a military exemption applicant the same as other unavoidable circumstance applicants. The military exemption applicant would receive one non–transferable permit with an angler endorsement of six unless the applicant could demonstrate that it likely would have met participation requirements for a transferable permit or a higher angler endorsement.

Transfers

After charter halibut permits are initially distributed by NMFS, a person holding a transferable permit could transfer the permit to another individual or non–individual entity with certain limitations. Transferability of permits would allow limited new entry into the charter vessel sector while the limited access program generally would prevent an uncontrolled expansion of the charter vessel fishing sector and provide for some consolidation in the sector. However, limits would be placed on consolidation to prevent any one person from holding an excessive share of charter vessel privileges.

To enforce limitations on the transfer of charter halibut permits, no transfer of a permit would be effective unless it is first approved by NMFS. NMFS would provide a transfer application to the person transferring and the person receiving the transferred permit. Completion of the transfer application would be required. Generally, NMFS would approve any transfer that is consistent with the following standards.

Transferable permit. NMFS would approve the transfer of only transferable charter halibut permits. Nontransferable permits could not be transferred to any entity different from the one to which it is initially issued. Hence, a nontransferable permit could not be transferred from the name of the individual once the individual dies. A nontransferable permit could not be transferred from a non–individual permit holder (a corporation, partnership or other entity) if the non–individual permit holder dissolves or changes. The proposed regulation incorporates the definition of ''change'' in a corporation or partnership from the IFQ program at 50 CFR 679.42(j)(4)(i). This paragraph in the IFQ regulations defines ''a change'' for corporations, partnerships, or other non–individual entity to mean ''the addition of any new shareholder(s) or partner(s), except that a court appointed trustee to act on behalf of a shareholder or partner who becomes incapacitated is not a change in the corporation, partnership, association, or other non–individual entity.''

Citizenship. The Council recommended that the charter vessel fishery under limited access should be primarily owned and controlled by United States citizens. The Council's authority under the Halibut Act at section 773c(c), however, is limited to developing regulations ''...applicable to nationals or vessels of the United States....'' Hence, the development of regulations that include non–citizens of

the U.S. is not authorized by section 773c(c) of the Halibut Act. The Secretary, however, has general responsibility and authority to adopt regulations as may be necessary under section 773c(a) and (b) of the Halibut Act. Therefore, the Secretary is exercising this authority in proposing the citizenship requirements recommended by the Council.

Based on the Council's recommendation, the Secretary is proposing two different eligibility standards. First, for initial allocation of charter halibut permits, this action proposes no distinction between U.S. citizens and nationals of other countries. Any person that meets the standards for initial allocation described above would be issued a charter halibut permit or permits according to those standards. No citizenship standards would apply to the initial allocation of charter halibut permits to avoid excluding persons who had legitimately participated in the charter vessel fishery during the qualifying and recent participation years. Second, for transfers of charter halibut permits, this action proposes to allow transfers only to U.S. citizens. That is, a transfer to an individual would be approved only if the individual is a U.S. citizen, and a transfer to a corporate entity would be approved only if it is a U.S. business with at least 75 percent U.S. citizen ownership of the business. This proposal adopts the 75 percent U.S. ownership criterion for a U.S. business from the American Fisheries Act (111 Stat. 2681, Oct. 21, 1998), which is a key piece of federal legislation designed to Americanize the fleet fishing off American waters. Hence, as non–U.S. citizens leave the fishery their charter halibut permits either would cease to exist (if the permits were nontransferable) or they would be replaced by U.S. citizens or U.S. businesses.

Excessive share limit. Although the proposed limited access system would allow for some consolidation in the charter vessel sector, a concern about too much consolidation caused the Council to recommend that a person should be prevented from holding more than five permits by transfer. Hence, five permits would be the excessive share limit and NMFS would not approve a transfer that would result in the person receiving the transferred permit holding more than five permits.

Two important exceptions to this excessive share limit, however, would allow a person to hold more than five permits. First, a person that is the initial recipient of more than five permits would be able to continue to hold all of the permits for which the person initially qualified. No approval would be granted for additional permits to be transferred to a person holding more than five permits under this exception. Also, this exception would not apply if an individual permit holder dies or a corporate permit holder dissolves or changes its ownership by adding one or more new owner(s) or partner(s). In this event, NMFS would consider a successor–in–interest or a changed corporate structure to be a different entity from the one that was the initial recipient of the permits and the exception to the excessive share limit would not apply to the new entity.

Under the second exception, NMFS would approve a transfer that resulted in the person receiving the transfer holding more than five permits if the person were to meet the following three conditions:

- The existing permit holder that holds more than five permits under the first exception would be transferring all of the transferable permits that were initially issued;
- The existing permit holder would be transferring all assets—such as vessels owned by the business, lodges, fishing equipment, etc.—of its charter vessel fishing business along with the permits; and
- The person that would receive the permits in excess of the excessive share limit does not hold any permits at the time of the proposed transfer.

In making this recommendation, the Council reasoned that these exceptions would not increase the number of charter vessel businesses beyond those existing at the start of the limited access program. Allowing the transfer of a group of permits in excess of the excessive share limit along with an entire business would be simply substituting one business for another one and would not add to the overall charter fishing sector. These exceptions essentially ''grandfather'' businesses that would receive more permits, at the initial allocation of permits, than the excessive share limit would otherwise allow. Further, these exceptions allow the transfer of this grandfather right to a new business. A transfer of anything less than all the permits and assets, however, would end the grandfather right.

The Council and NMFS recognize that a corporate entity at the excessive share limit of five permits may be closely affiliated with another corporate entity that is under the limit and could apply to receive a transferred permit. To prevent a permit holder from exceeding the limit by affiliation, this action proposes to apply the 10 percent ownership criterion used for implementing the American Fisheries Act and defined at 50 CFR 679.2. Under this definition, two entities are considered the same entity if one entity owns or controls 10 percent or more interest in the other entity.

Owed penalties. Finally, this action proposes to prevent the transfer of a charter halibut permit to or from any person that owes NMFS any fines, civil penalties, or other payments. In addition, a transfer of a permit would not be approved if it would be inconsistent with any sanctions resulting from federal fishing violations. NMFS concluded that this was a reasonable way to enforce fishing sanctions and payment of fines, penalties, and payments owed to NMFS by parties to a proposed transfer.

Special Permits

In developing its charter vessel limited access policy, the Council was faced with a goal of constraining development of the charter vessel fishery for halibut on one hand while on the other hand recognizing the potential importance of this fishery to the economic development of some rural communities. The Council recommended providing a special permit to allow development of a charter vessel fishery in certain rural communities. In addition, the Council recognized charter vessels operated by the U.S. Military's Morale, Welfare and Recreational (MWR) programs for recreational use by service members, and recommended no limited access limitations on these military charter vessels. Hence, two types of special permits are proposed—one for community development and one for military use.

Community charter halibut permit. The Council recommended and this action proposes to allow for a special community charter halibut permit that would be awarded, at no cost, to Community Quota Entities (CQEs) representing communities that do not currently have a fully developed charter halibut fleet. The CQE provision was developed by the Council originally to help rural communities become more involved in the commercial fisheries for halibut and sablefish (84 FR 23681, April 30, 2004). In that context, CQEs are already defined at 50 CFR 679.2. The Council recommended that existing or future CQEs could serve a similar purpose in developing the charter vessel sector in certain rural communities.

This action proposes that a CQE representing a community or communities in Area 2C could receive a maximum of four community charter

halibut permits for each eligible community the CQE represents. A CQE representing a community or communities in Area 3A could receive a maximum of seven community charter halibut permits for each eligible community it represents. The larger number of community permits that would be allowed in Area 3A reflects the larger resource base in that area. A community charter halibut permit would have an angler endorsement of six and would be non–transferable.

This action proposes to limit the communities eligible for community charter halibut permits based on the Council's rationale that eligible communities should be those that have an emerging but not a fully developed charter vessel fleet because they could most benefit from the permits and from the economic benefits of new charter businesses. The Council recommended that eligible communities are those CQE communities (listed in Table 21 to part 679) in which 10 or fewer ''active'' charter vessel businesses terminated charter vessel trips in the community in each of the qualifying years (2004 and 2005). The term ''active'' means at least five logbook fishing trips per year. The five–trip criterion is based on the basic qualification proposed for a charter halibut permit of five logbook trips in each of two years. Communities with more than 10 active charter vessel businesses were considered developed enough to not require the benefit of the community permit program. Communities with no active charter vessel businesses were not considered likely prospects for developing future charter vessel businesses. In addition, the Council specifically named the communities that would meet these criteria. Therefore, this action proposes eligibility of the specific communities named by the Council. To add or subtract a community from the proposed list would require separate Council action and a regulatory amendment.

The list of communities proposed to be eligible for community charter halibut permits under a CQE are a subset of those listed in Table 21 to part 679. In Area 2C, the following 18 communities would be eligible for a community charter halibut permit: Angoon, Coffman Cove, Edna Bay, Hollis, Hoonah, Hydaburg, Kake, Kassan, Klawock, Metlakatla, Meyers Chuck, Pelican, Point Baker, Port Alexander, Port Protection, Tenakee, Thorne Bay and Whale Pass. In Area 3A, the following 14 communities would be eligible for a community charter halibut permit: Akhiok, Chenega, Halibut Cove, Karluk, Larsen Bay, Nanwalek, Old Harbor, Ouzinkie, Port Graham, Port Lions, Seldovia, Tatitlek, Tyonek, and Yakutat.

In addition to the community charter halibut permits available to a CQE under this proposed action, a CQE could acquire other charter halibut permits through transfer as described above. Therefore, this action proposes a unique excessive share limitation recommended by the Council to apply specifically to CQEs as potential permit holders. The limitation for a CQE representing Area 2C communities would be four community charter halibut permits per eligible community. Additional permits that the CQE may acquire by transfer would be limited to an additional four per eligible community for Area 2C. Hence, the overall limit of permits that such a CQE may hold would be eight per eligible community for Area 2C. This overall area–wide limit would apply to all community charter halibut permits issued to a CQE or to community charter halibut permits in combination with charter halibut permits acquired through transfer. For example, a CQE representing two eligible communities in Area 2C could request and receive four community charter halibut permits for one community and four community charter halibut permits for the other community. The CQE could receive an additional four charter halibut permits acquired by transfer for each community. The total number of permits—eight community charter halibut permits plus eight acquired charter halibut permits by transfer—would be the limit for the CQE to hold in Area 2C. However, if the CQE subsequently represents another community in Area 2C, the limit would change based on the number of communities that the CQE represents in that area.

A similar excessive share limitation would apply also to a CQE representing communities in Area 3A. The overall limit on the number of permits that a CQE representing eligible communities in Area 3A may hold would be 14 per eligible community the CQE represents in that area. Hence, the overall limit for any one CQE in any area would be two times the number of community charter halibut permits it may hold per eligible community.

The proposed limit on the number of community charter halibut permits that can be held by a CQE is intended to assist the development of an emerging charter halibut fishery in eligible communities without undermining the purpose of the limited access system proposed by this action. Also, the Council recommended that a charter vessel fishing trip for halibut that is authorized by a community charter halibut permit would be required to either begin or end within the community designated on the community charter halibut permit. The purpose of this requirement is to assure that the charter vessel anglers on such a fishing trip have an opportunity to use the goods and services of the community. This requirement would apply only to community charter halibut permits and not to any additional charter halibut permits that a CQE may acquire by transfer.

Military charter halibut permit. The proposed action would grant permits for charter vessels operated by any U.S. Military Morale, Welfare, and Recreation (MWR) program in Alaska. The only MWR program in Alaska that currently offers recreational charter halibut fishing to service members is the Seward Resort based at Fort Richardson in Anchorage, Alaska. To operate a charter vessel, the MWR program must obtain a special military charter halibut permit by application to NMFS. Each military charter halibut permit would be non–transferable and valid only in the regulatory area designated on the permit.

Prohibitions

This action proposes eight prohibitions. Six prohibitions mirror the requirements of the rule and need not be discussed separately. These six are prohibitions against:

- Fishing for halibut in violation of this program;
- Failing to comply with the requirements of this program;
- Failing to submit or submitting inaccurate information that is required to be submitted;
- A charter vessel operating with charter vessel anglers on board the vessel that are catching and retaining halibut in Area 2C or Area 3A without a charter halibut permit designated for that area;
- Having a number of anglers on board a charter vessel that exceeds the total angler endorsement number on the permit or permits that are on board the vessel; and
- Having a number of anglers on board a charter vessel that exceeds the total angler endorsement number on the community permit or permits that are on board the vessel.

Two additional prohibitions are proposed. First, a charter vessel operator would be prohibited from operating a charter vessel in Area 2C and Area 3A during a single charter vessel trip. The Council recommended this limitation on the use of permits. The analysis

indicated that few vessels operate in both areas. The prohibition therefore would not significantly undermine existing business operations in the charter fishery. This prohibition would aid in collection of harvest and logbook data and simplify compliance monitoring. Further, because each permit would have its own angler endorsement number, this prohibition would facilitate enforcement of the maximum angler endorsement designation on the permit.

Second, a charter vessel operator would be prohibited from operating a charter vessel where anglers are catching and retaining halibut, without having on board the vessel a State of Alaska Saltwater Charter Vessel Logbook issued to the person named on the charter halibut permit or permits on board the vessel. The Council recommended this prohibition. This prohibition would not conflict with any State of Alaska logbook requirement and it would likely promote involvement by the permit holder with the operation of the charter halibut fishing operation and with the collection of accurate logbook data.

The proposed rule does not have a prohibition against leasing although the Council recommended a prohibition against leasing. The proposed rule does not contain a comprehensive prohibition on leasing because such a prohibition would not lead to a permit holder being on board the vessel or having any direct connection with the charter operation. Under the proposed rule, a permit holder would not have to own a vessel or operate a vessel. A permit holder could legitimately allow a vessel operator to use the permit holder's permit as authority for the vessel operator to take anglers out charter halibut fishing, even though the permit holder does not own or operate the vessel and has nothing directly to do with the charter vessel fishing operation. The vessel operator may pay the permit holder for the right to use the permit or the permit holder may pay the vessel operator to take out anglers organized by the permit holder. The charter industry has a variety of business models and the way some of these business models function is substantially similar to a lease between the permit holder and the vessel operator.

Further, it would be difficult to enforce a prohibition on leasing. NMFS would have to collect additional information attendant to a transfer. Simply prohibiting a transfer called ''a lease'' would result in the prohibition being enforced only against legally unsophisticated persons who did not draft their document to avoid such a term. For NMFS to examine the substance of any transaction would be difficult, time–consuming and undermine the principle that the permits are relatively freely transferable. In light of this difficulty, the Council recommended three specific measures to discourage leasing:

- Prohibit the charter halibut permit from being used on board a vessel unless that vessel is identified in an ADF&G Saltwater Charter Logbook;
- Require that a charter vessel operator have on board the vessel an ADF&G Saltwater Charter Logbook issued in the name of the charter halibut permit holder; and
- Require the authorizing charter halibut permit number to be recorded in the ADF&G Saltwater Charter Logbook for each trip.

This action proposes all of these Council recommendations as part of the requirement to have the Saltwater Charter Logbook on board. The requirement to identify the vessel in the logbook is intended to be consistent with an existing State of Alaska requirement that a charter vessel operator have on board the vessel an ADF&G Saltwater Charter Logbook. This logbook must be specific to the vessel on which it is used.

Technical Regulatory Change

This action proposes a technical change relevant to the definition of the term ''charter vessel'' at 50 CFR 300.61. The definition for this term was revised by a final rule published September 24, 2008 (73 FR 54932) for purposes of a prohibition against using a charter vessel for subsistence fishing for halibut. This action proposes to integrate the definition into the prohibition language to which it directly applies at 50 CFR 300.66(i) to clarify that the definition does not apply universally to all other regulations. The universal definition of charter vessel would continue to be that used by the IPHC and appearing in the annual management measures required by 50 CFR 300.62. The most recent annual management measures were published March 7, 2008 (73 FR 12280).

Classification

The NMFS Assistant Administrator has determined that this proposed rule is necessary for the conservation and management of the halibut fishery and that it is consistent with the Halibut Act and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866. This proposed rule also complies with the Secretary's authority under the Halibut Act to implement management measures for the halibut fishery.

An initial regulatory flexibility analysis (IRFA) was prepared as required by section 603 of the Regulatory Flexibility Act. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action may be found at the beginning of this preamble. A summary of the IRFA follows. Copies of the IRFA are available from the Council or NMFS (see **ADDRESSES**).

The number of businesses that submitted ADF&G logbooks for bottomfish activity in IPHC Area 2C between 1999 and 2005, and that may be directly regulated by this action, ranged from 412 in 2000 to 352 in 2002. The number of businesses over the same time in IPHC Area 3A period ranged from 455 in 2000 to 402 in 2003. The proposed limited access program (Alternative 2) would issue permits based on whether a business achieved a specified level of participation during 2004 or 2005, and in the year prior to implementation of the program. The Council's preferred alternative would issue an estimated maximum of 689 permits to 380 businesses in Area 2C and 611 permits to 471 businesses in Area 3A. These represent maximum estimates because a business also would have to meet the qualifying criteria in the recent participation period year, which is likely 2007 or 2008. Thus, the exact number of businesses that may qualify for a permit cannot be determined until the implementation of the program.

The SBA specifies that for marinas and charter/party boats, a small business is one with annual receipts less than $6.0 million. The largest of these charter operations, which are lodges, may be considered large entities under SBA standards, but that cannot be confirmed because NMFS does not collect economic data on lodges. All of the other 800–plus charter operations would likely be considered small entities, based on SBA criteria, because they would be expected to have gross revenues of less than $6.0 million on an annual basis.

Regulations that directly regulate communities are included in the permit allotment part of this action. That part seeks to help small, remote communities in Areas 2C and 3A to develop charter businesses by mitigating the economic barrier associated with purchasing a charter halibut permit and

creating a number of non–transferable permits that can only be held by the non–profit entity representing the eligible community. Under the preferred alternative, 18 Area 2C communities could be eligible to each receive up to 4 halibut charter permits at no cost; 14 Area 3A communities could be eligible to each receive up to 7 halibut charter permits at no cost. Note that their eligibility is also conditioned on the fact that they must form an approved non–profit community quota entity through NMFS; thus, the permits available for eligible communities at no cost are maximum estimates. All of these communities would be considered small entities under the SBA definitions.

This action would impose new recordkeeping requirements. Permit applications would be required to be submitted before the start of the program. The application would require information about the business applying for the permit including the ownership structure of the business and information on the charter activities of the business. After submitting the initial permit application, additional applications would not be required. NMFS would require additional reports only when the structure of the business owning the permit changes or the permit is transferred. NMFS also may require some additional reports, depending on how well the current ADF&G logbooks meet their management and enforcement needs and the level of access NMFS has to those data. In addition, communities eligible to receive permits at no cost would be required to submit information to NMFS: (1) on application for a charter halibut permit, and (2) on the use of the permit on an annual basis. In and of itself, the proposed recordkeeping and reporting requirements would not likely represent a ''significant'' economic burden on the small entities operating in this fishery.

NMFS has not identified other Federal rules that may duplicate, overlap, or conflict with the proposed rule.

An IRFA is required to describe significant alternatives to the proposed rule that accomplish the stated objectives of the Magnuson–Stevens Act and other applicable statutes and that would minimize any significant economic impact of the proposed rule on small entities.

The status quo alternative specifies the GHL as a target amount of halibut that the charter fleet can harvest, but the number of charter vessels that can enter the fishery is not limited. NMFS is authorized to implement management measures to keep the charter fleet to approximately the GHL. Absent decreases in demand for charter fishing created by restrictions on harvest, increases in the charter fleet could undermine these restrictions and prevent long–term stability of the charter sector and continue the need for further restrictions on harvest.

The Council considered options to the preferred alternative that presented a range for various aspects of the program. In particular, ten options for minimum qualification requirements for receipt of a permit under the program were considered in each area. These options varied depending on the number of trips needed to qualify for a permit, and whether the trips for boats in a multi–boat operation had to be considered individually, or whether the business's total trips could be averaged over vessels. The Council chose the option that distributed the second largest number of permits possible among the range of options. One option, a one trip threshold for permit issuance would have distributed more permits; seven options would have distributed fewer permits in each area. The analysis noted that it was unlikely that a one–trip minimum qualification requirement would reduce the number of permits to 2005 participation levels. Additional numbers of permits would make it harder to meet the objectives of this action to stabilize this fleet and its fishing capacity. Hence, the Council chose the option that best met its objectives with the least impact to affected entities.

This proposed rule contains a collection–of–information requirement subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval. Public reporting burden estimates per response for these requirements are: Two hours for charter halibut permit application; two hours for community charter halibut permit application; two hours for military charter halibut permit application; two hours for transfer of a charter halibut permit; and four hours for appeal of permit denial. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection–of–information.

Public comment is sought regarding: whether this proposed collection–of–information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS at the **ADDRESSES** above, and e–mail to *David__Rostker@omb.eop.gov*, or fax to 202–395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

This proposed rule is consistent with Executive Order 12962 as amended September 26, 2008, which required Federal agencies to ensure that recreational fishing is managed as a sustainable activity and is consistent with existing law.

List of Subjects in 50 CFR Part 300

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.

Dated: April 15, 2009.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 300, subpart E as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

1. The authority citation for part 300, subpart E continues to read as follows:

Authority: 16 U.S.C. 773–773k.

2. In § 300.61, as proposed to be amended on December 22, 2008, at 73 FR 78282 is further amended by:

A. Removing the definition for ''Charter vessel''.

B. Revising definitions for ''Charter vessel angler'', ''Charter vessel fishing trip'', ''Charter vessel guide'', ''Charter vessel operator'', ''Crew member'', and ''Sport fishing guide services''.

C. Adding definitions for ''Charter halibut permit'', ''Community charter halibut permit'', and ''Military charter halibut permit'' in alphabetical order.

The revisions and additions read as follows:

§ 300.61 Definitions.

* * * * *

Charter halibut permit means a permit issued by the National Marine Fisheries Service pursuant to § 300.67.

Charter vessel angler, for purposes of §§ 300.66, and 300.67, means a person, paying or non–paying, using the services of a charter vessel guide.

Charter vessel fishing trip, for purposes of §§ 300.65(d), 300.66, and 300.67, means the time period between the first deployment of fishing gear into the water from a vessel after any charter vessel angler is onboard and the offloading of one or more charter vessel anglers or any halibut from that vessel.

Charter vessel guide, for purposes of §§ 300.65(d), 300.66 and 300.67, means a person who holds an annual sport guide license issued by the Alaska Department of Fish and Game, or a person who provides sport fishing guide services.

Charter vessel operator, for purposes of §§ 300.65(d), and 300.67, means the person in control of the vessel during a charter vessel fishing trip.

* * * * *

Community charter halibut permit means a permit issued by NMFS to a Community Quota Entity pursuant to § 300.67.

Crew member, for purposes of §§ 300.65(d), and 300.67, means an assistant, deckhand, or similar person who works directly under the supervision of, and on the same vessel as, a charter vessel guide or charter vessel operator.

* * * * *

Military charter halibut permit means a permit issued by NMFS to a United States Military Morale, Welfare and Recreation Program pursuant to § 300.67.

* * * * *

Sport fishing guide services, for purposes of §§ 300.65(d) and 300.67, means assistance, for compensation, to a person who is sport fishing, to take or attempt to take fish by being onboard a vessel with such person during any part of a charter vessel fishing trip. Sport fishing guide services do not include services provided by a crew member.

* * * * *

3. In § 300.66, as proposed to be amended on December 22, 2008, at 73 FR 78283 is further amended by:

A. Revising paragraphs (b), (i), (o), and (p).

B. Adding paragraphs (r), (s), (t), (u), (v), and (w).

The revisions and additions read as follows:

§ 300.66 Prohibitions.

* * * * *

(b) Fish for halibut except in accordance with the catch sharing plans and domestic management measures implemented under §§ 300.63, 300.65, and 300.67.

* * * * *

(i) Fish for subsistence halibut from a charter vessel or retain subsistence halibut onboard a charter vessel if anyone other than the owner of record, as indicated on the State of Alaska vessel registration, or the owner's immediate family is aboard the charter vessel and unless each person engaging in subsistence fishing onboard the charter vessel holds a subsistence halibut registration certificate in the person's name pursuant to § 300.65(i) and complies with the gear and harvest restrictions found at § 300.65(h). For purposes of this paragraph (i), the term ''charter vessel'' means a vessel that is registered, or that should be registered, as a sport fishing guide vessel with the Alaska Department of Fish and Game.

* * * * *

(o) Fail to comply with the requirements of §§ 300.65 and 300.67.

(p) Fail to submit or submit inaccurate information on any report, license, catch card, application or statement required or submitted under §§ 300.65 and 300.67.

* * * * *

(r) Operate a vessel with one or more charter vessel anglers on board that are catching and retaining halibut without a valid charter halibut permit for the regulatory area in which the vessel is operating.

(s) Operate a vessel with more charter vessel anglers on board catching and retaining halibut than the total angler endorsement number specified on the charter halibut permit or permits on board the vessel.

(t) Operate a vessel with more charter vessel anglers on board catching and retaining halibut than the angler endorsement number specified on the community charter halibut permit or permits on board the vessel.

(u) Operate a vessel in Area 2C and Area 3A during one charter vessel fishing trip.

(v) Operate a vessel in Area 2C or Area 3A with one or more charter vessel anglers on board that are catching and retaining halibut without having on board the vessel a State of Alaska Department of Fish and Game Saltwater Charter Logbook that specifies the following:

(1) The person named on the charter halibut permit or permits being used on board the vessel;

(2) The charter halibut permit or permits number(s) being used on board the vessel; and

(3) The name and state issued boat registration (AK number) or U.S. Coast Guard documentation number of the vessel.

(w) Operate a vessel with one or more charter vessel anglers on board that are catching and retaining halibut without the full compliance of the crew member(s) on the vessel with requirements of §§ 300.65 and 300.67.

4. Add § 300.67 to subpart E to read as follows:

§ 300.67 Charter Halibut Limited Access Program.

This section establishes limitations on using a vessel on which charter vessel anglers catch and retain Pacific halibut in International Pacific Halibut Commission (IPHC) regulatory areas 2C and 3A.

(a) *General permit requirements.* (1) In addition to other applicable permit and licensing requirements, any charter vessel operator with one or more charter vessel anglers catching and retaining Pacific halibut on board a vessel must have on board the vessel a valid charter halibut permit or permits endorsed for the regulatory area in which the vessel is operating and endorsed for the number of charter vessel anglers who are catching and retaining Pacific halibut.

(2) *Area endorsement.* A charter halibut permit is valid only in the International Pacific Halibut Commission regulatory area for which it is endorsed. Regulatory areas are defined in the annual management measures published pursuant to § 300.62.

(3) *Charter vessel angler endorsement.* A charter halibut permit is valid only for the maximum number of charter vessel anglers for which the charter halibut permit is endorsed.

(b) *Qualifications for a charter halibut permit.* A charter halibut permit for IPHC regulatory area 2C must be based on meeting participation requirements in area 2C. A charter halibut permit for IPHC regulatory area 3A must be based on meeting participation requirements in area 3A. Qualifications for a charter halibut permit in each area must be determined separately and must not be combined.

(1) *Non–transferable permit.* NMFS will issue a non–transferable charter halibut permit to a person that:

(i) Is the person to which the State of Alaska Department of Fish and Game (ADF&G) issued the ADF&G Business Owner Licenses that authorized logbook fishing trips during the time periods in paragraphs (b)(1)(ii) and (iii) of this section;

(ii) Reported five (5) bottomfish logbook fishing trips or more during one year of the qualifying period; and

(iii) Reported five (5) halibut logbook fishing trips or more during the recent participation period.

(2) *Transferable permit.* NMFS will issue a transferable charter halibut permit to a person that:

(i) Is the person to which the ADF&G issued one or more ADF&G Business Owner Licenses that authorized logbook fishing trips during the time periods in paragraphs (b)(2)(ii) and (iii) of this section;

(ii) Reported fifteen (15) bottomfish logbook fishing trips or more from the same vessel during one year of the qualifying period; and

(iii) Reported fifteen (15) halibut logbook fishing trips or more from the same vessel during the recent participation period.

(3) NMFS will issue a charter halibut permit to a person who meets the following requirements:

(i) The person applies for a charter halibut permit within the application period specified in the **Federal Register** and completes the application process pursuant to paragraph (h) of this section.

(ii) The person is the individual or non–individual entity to which ADF&G issued Business Owner Licenses that authorized logbook fishing trips that meet the participation requirements described in paragraphs (b)(1) and (b)(2) of this section for one or more charter halibut permits, unless the person is applying as a successor–in–interest.

(iii) If the person is applying as a successor–in–interest to the person to which ADF&G issued the Business Owner Licenses that authorized logbook fishing trips that meet the participation requirements described in paragraphs (b)(1) and (b)(2) of this section for one or more charter halibut permits, NMFS will require the following written documentation:

(A) If the applicant is applying on behalf of a deceased individual, the applicant must document that the individual is deceased, that the applicant is the personal representative of the deceased's estate appointed by a court and that the applicant specifies who, pursuant to the applicant's personal representative duties, should receive the permit(s) for which application is made; or

(B) If the applicant is applying as a successor–in–interest to an entity that is not an individual, the applicant must document that the entity has been dissolved and that the applicant is the successor–in–interest to the dissolved entity.

(4) If more than one applicant claims that they are the successor–in–interest to a dissolved entity, NMFS will award the permit or permits for which the dissolved entity qualified in the name(s) of the applicants that submitted a timely application and proved that they are a successor–in–interest to the dissolved entity.

(5) Notwithstanding any other provision in this subpart, and except as provided in paragraph (b)(4) of this section,

(i) One logbook fishing trip shall not be credited to more than one applicant;

(ii) One logbook fishing trip made pursuant to the one ADF&G Business Owners License shall not be credited to more than one applicant; and

(iii) Participation by one charter halibut fishing business shall not be allowed to support issuance of permits to more than one applicant.

(c) *Number of charter halibut permits.* An applicant that meets the participation requirements in paragraph (b) of this section will be issued the number of charter halibut permits equal to the lesser of the number of permits determined by paragraphs (c)(1) or (c)(2) of this section as follows:

(1) The total number of bottomfish logbook fishing trips made pursuant to the applicant's ADF&G Business License in the applicant–selected year divided by five, and rounded down to a whole number; or

(2) The number of vessels that made the bottomfish logbook fishing trips in the applicant–selected year.

(d) *Designation of transferability.* Each permit issued under paragraph (c) of this section will be designated as transferable or non–transferable. The number of transferable charter halibut permits issued to an applicant will be equal to the number of vessels that made 15 bottomfish logbook fishing trips or more in the applicant–selected year. If the applicant qualifies for additional charter halibut permits, they will be issued as non–transferable permits.

(e) *Angler endorsement.* A charter halibut permit will be endorsed for the highest number of charter vessel anglers reported on any logbook fishing trip in the qualifying period except that:

(1) The angler endorsement number will be four (4) if the highest number of charter vessel anglers reported on any logbook fishing trip in the qualifying period is less than four (4) or no charter vessel anglers were reported on any of the applicant's logbook fishing trips in the applicant–selected year; and

(2) The angler endorsement number will be six (6) on a charter halibut permit issued pursuant to military service under paragraph (g)(3) of this section.

(f) For purposes of this section, the following terms are defined as follows:

(1) *Applicant–selected year* means the year in the qualifying period, 2004 or 2005, selected by the applicant for NMFS to use in determining the applicant's number of transferable and nontransferable permits.

(2) *Bottomfish logbook fishing trip* means a logbook fishing trip in the qualifying period that was reported to the State of Alaska in a Saltwater Charter Logbook with one of the following pieces of information: the statistical area(s) where bottomfish fishing occurred, the boat hours that the vessel engaged in bottomfish fishing, or the number of rods used from the vessel in bottomfish fishing.

(3) *Halibut logbook fishing trip* means a logbook fishing trip in the recent participation period that was reported to the State of Alaska in a Saltwater Charter Logbook within the time limit for reporting the trip in effect at the time of the trip with one of the following pieces of information: the number of halibut that was kept, the number of halibut that was released, or the boat hours that the vessel engaged in bottomfish fishing.

(4) *Logbook fishing trip* means a bottomfish logbook fishing trip or a halibut logbook fishing trip that was reported as a trip to the State of Alaska in a Saltwater Charter Logbook within the time limits for reporting the trip in effect at the time of the trip, except that for multi-day trips, the number of trips will be equal to the number of days of the multi-day trip, e.g., a two day trip will be counted as two trips.

(5) *Official charter halibut record* means the information prepared by NMFS on participation in charter halibut fishing in Area 2C and Area 3A that NMFS will use to implement the Charter Halibut Limited Access Program and evaluate applications for charter halibut permits.

(6) *Qualifying period* means the sport fishing season established by the International Pacific Halibut Commission (February 1 through December 31) in 2004 and 2005.

(7) *Recent participation period* means the sport fishing season established by the International Pacific Halibut Commission (February 1 through December 31) in [insert the recent participation year].

(g) *Unavoidable circumstance*—(1) *Recent participation period.* An applicant for a charter halibut permit that meets the participation requirement for the qualifying period, but does not meet the participation requirement for the recent participation period, may receive one or more charter halibut

permits if the applicant proves paragraphs (g)(1)(i) through (iv) of this section as follows:

(i) The applicant had a specific intent to operate a charter halibut fishing business in the recent participation period;

(ii) The applicant's specific intent was thwarted by a circumstance that was:

(A) Unavoidable;

(B) Unique to the owner of the charter halibut fishing business; and

(C) Unforeseen and reasonably unforeseeable by the owner of the charter halibut fishing business;

(iii) The circumstance that prevented the applicant from operating a charter halibut fishing business actually occurred; and

(iv) The applicant took all reasonable steps to overcome the circumstance that prevented the applicant from operating a charter halibut fishing business in the recent participation period.

(v) If the applicant proves the foregoing (see paragraphs (g)(1)(i) through (iv) of this section), the applicant will receive the number of transferable and non–transferable permits and the angler endorsements on these permits that result from the application of criteria in paragraphs (b), (c), (d), (e), and (f) of this section.

(2) *Qualifying period.* An applicant for a charter halibut permit that meets the participation requirement for the recent participation period but does not meet the participation requirement for the qualifying period, may receive one or more permits if the applicant proves paragraphs (g)(2)(i) through (iv) of this section as follows:

(i) The applicant had a specific intent to operate a charter halibut fishing business in at least one year of the qualifying period;

(ii) The applicant's specific intent was thwarted by a circumstance that was:

(A) Unavoidable;

(B) Unique to the owner of the charter halibut fishing business; and

(C) Unforeseen and reasonably unforeseeable by the owner of the charter halibut fishing business;

(iii) The circumstance that prevented the applicant from operating a charter halibut fishing business actually occurred; and

(iv) The applicant took all reasonable steps to overcome the circumstance that prevented the applicant from operating a charter halibut fishing business in at least one year of the qualifying period.

(v) If the applicant proves the foregoing (see paragraphs (g)(2)(i) through (iv) of this section), the applicant will receive either:

(A) One non–transferable permit with an angler endorsement of four (4); or

(B) The number of transferable and non–transferable permits, and the angler endorsement on those permits, that result from the logbook fishing trips that the applicant proves likely would have taken by the applicant but for the circumstance that thwarted the applicant's specific intent to operate a charter halibut fishing business in one year of the qualifying period and the applicant did not participate during the other year of the qualifying period.

(3) *Military service.* An applicant for a charter halibut permit that meets the participation requirement in the recent participation period, but does not meet the participation requirement for the qualifying period, may receive one or more permits if the applicant proves the following:

(i) The applicant was ordered to report for military service as a member of a branch of the National Guard or military reserve during the qualifying period; and

(ii) The applicant had a specific intent to operate a charter halibut fishing business that was thwarted by the applicant's order to report for military service.

(h) *Application for a charter halibut permit.* (1) An application period of no less than 60 days will be specified by notice in the **Federal Register** during which any person may apply for a charter halibut permit. Any application that is submitted by mail and postmarked, or submitted by hand delivery or facsimile, after the last day of the application period will be denied. Electronic submission other than by facsimile will be denied. Applications must be submitted to the address given in the **Federal Register** notice of the application period.

(2) *Charter halibut permit.* To be complete, a charter halibut permit application must be signed and dated by the applicant, and the applicant must attest that, to the best of the applicant's knowledge, all statements in the application are true and the applicant complied with all legal requirements for logbook fishing trips in the qualifying period and recent participation period that were reported under the applicant's ADF&G Business Owner Licenses. An application for a charter halibut permit will be made available by NMFS. Completed applications may be submitted by mail, hand delivery, or facsimile at any time during the application period announced in the **Federal Register** notice of the application period described at paragraph (h)(1) of this section.

(3) *Application procedure.* NMFS will create the official charter halibut record and will accept all application claims that are consistent with the official charter halibut record. If an applicant's claim is not consistent with the official charter halibut record, NMFS will respond to the applicant by letter specifying a 30-day evidentiary period during which the applicant may provide additional information or argument to support the applicant's claim. Limits on the 30-day evidentiary period are as follows:

(i) An applicant shall be limited to one 30-day evidentiary period; and

(ii) Additional information received after the 30-day evidentiary period has expired will not be considered for purposes of the initial administrative determination.

(4) After NMFS evaluates the additional information submitted by the applicant during the 30-day evidentiary period, it will take one of the following two actions.

(i) If NMFS determines that the applicant has met its burden of proving that the official charter halibut record is incorrect, NMFS will amend the official charter halibut record and use the official charter halibut record, as amended, to determine whether the applicant is eligible to receive one or more charter halibut permits, the nature of those permits and the angler and area endorsements on those permits; or

(ii) If NMFS determines that the applicant has not met its burden of proving that the official charter halibut record is incorrect, NMFS will notify the applicant by an initial administration determination, pursuant to paragraph (h)(5) of this section.

(5) *Initial Administration Determination (IAD).* NMFS will send an IAD to the applicant following the expiration of the 30-day evidentiary period if NMFS determines that the applicant has not met its burden of proving that the official charter halibut record is incorrect or that other reasons exist to initially deny the application. The IAD will indicate the deficiencies in the application and the deficiencies with the information submitted by the applicant in support of its claim.

(6) *Appeal.* An applicant that receives an IAD may appeal to the Office of Administrative Appeals (OAA) pursuant to § 679.43 of this title.

(i) If the applicant does not apply for a charter halibut permit within the application period specified in the **Federal Register**, the applicant will not receive any interim permits pending final agency action on the application.

(ii) If the applicant applies for a permit within the specified application period and OAA accepts the applicant's appeal, the applicant will receive the number and kind of interim permits

which are not in dispute, according to the information in the official charter halibut record.

(iii) If the applicant applies for a permit within the specified application period and OAA accepts the applicant's appeal, but according to the information in the official charter halibut record, the applicant would not be issued any permits, the applicant will receive one interim permit with an angler endorsement of four (4).

(iv) All interim permits will be non–transferable and will expire when NMFS takes final agency action on the application.

(i) *Transfer of a charter halibut permit*—(1) *General.* A transfer of a charter halibut permit is valid only if it is approved by NMFS. NMFS will approve a transfer of a charter halibut permit if the permit to be transferred is a transferable permit issued under paragraph (b)(2) of this section, if a complete transfer application is submitted, and if the transfer application meets the standards for approval in paragraph (i)(2) of this section.

(2) *Standards for approval of transfers.* NMFS will transfer a transferable charter halibut permit to a person designated by the charter halibut permit holder if, at the time of the transfer the following standards are met:

(i) The person designated to receive the transferred permit is a U.S. citizen or a U.S. business with a minimum of 75 percent U.S. ownership;

(ii) The parties to the transfer do not owe NMFS any fines, civil penalties or any other payments;

(iii) The transfer is not inconsistent with any sanctions resulting from Federal fishing violations;

(iv) The transfer will not cause the designated recipient of the permit to exceed the permit limit at paragraph (j) of this section, unless an exception to that limit applies;

(v) A transfer application is completed and approved by NMFS; and

(vi) The transfer does not violate any other provision in this part.

(3) For purposes of paragraph (i)(2) of this section, a U.S. business with a minimum of 75 percent U.S. ownership means a corporation, partnership, association, trust, joint venture, limited liability company, limited liability partnership, or any other entity where at least 75 percent of the interest in such entity, at each tier of ownership of such entity and in the aggregate, is owned and controlled by citizens of the United States.

(4) *Application to transfer a charter halibut permit.* To be complete, a charter halibut permit transfer application must have notarized and dated signatures of the applicants, and the applicants must attest that, to the best of the applicants' knowledge, all statements in the application are true. An application to transfer a charter halibut permit will be made available by NMFS. Completed transfer applications may be submitted by mail or hand delivery at any time to the addresses listed on the application. Electronic or facsimile deliveries will not be accepted.

(5) *Denied transfer applications.* If NMFS does not approve a charter halibut permit transfer application, NMFS will inform the applicant of the basis for its disapproval.

(6) *Transfer due to court order, operation of law or as part of a security agreement.* NMFS will transfer a charter halibut permit based on a court order, operation of law or a security agreement, if NMFS determines that a transfer application is complete and the transfer will not violate an eligibility criterion for transfers.

(j) *Charter halibut permit limitations*—(1) *General.* A person may not own, hold, or control more than five (5) charter halibut permits except as provided by paragraph (j)(4) of this section. NMFS will not approve a transfer application that would result in the applicant that would receive the transferred permit holding more than five (5) charter halibut permits except as provided by paragraph (j)(6) of this section.

(2) *Ten percent ownership criterion.* In determining whether two or more persons are the same person for purposes of paragraph (j)(1) of this section, NMFS will apply the definition of an ''affiliation for the purpose of defining AFA entities'' at § 679.2 of this title.

(3) A permit will cease to be a valid permit if the permit holder is:

(i) An individual and the individual dies; or

(ii) A non–individual (e.g., corporation or partnership) and dissolves or changes as defined at paragraph (j)(5) of this section.

(iii) A transferable permit may be made valid by transfer to an eligible recipient.

(4) *Exception for initial recipients of permits.* Notwithstanding the limitation at paragraph (j)(1) of this section, NMFS may issue more than five (5) charter halibut permits to an initial recipient that meets the requirements described in paragraphs (b), (d), and (e) of this section for more than five (5) charter halibut permits, subject to the following limitations:

(i) This exception applies only to an initial recipient as the recipient exists at the time that it is initially issued the permits;

(ii) If an initial recipient of transferable permit(s) who is an individual dies, the individual's successor–in–interest may not hold more than five (5) charter halibut permits;

(iii) If an initial recipient permit holder that is a non–individual, such as a corporation or a partnership, dissolves or changes, NMFS will consider the new entity a new permit holder and the new permit holder may not hold more than five (5) charter halibut permits.

(5) For purposes of this paragraph (j), a ''change'' means:

(i) For an individual, the individual has died, in which case NMFS must be notified within 30 days of the individual's death; and

(ii) For a non–individual entity, the same as defined at § 679.42(j)(4)(i) of this title in which case the permit holder must notify NMFS within 15 days of the effective date of the change as required at § 679.42(j)(5) of this title.

(6) *Exception for transfer of permits.* Notwithstanding the limitation at paragraph (j)(1) of this section, NMFS may approve a permit transfer application that would result in the person that would receive the transferred permit(s) holding more than five (5) transferable charter halibut permits if the parties to the transfer meet the following conditions:

(i) The designated person that would receive the transferred permits does not hold any charter halibut permits;

(ii) All permits that would be transferred are transferable permits;

(iii) The permits that would be transferred are all of the transferable permits that were awarded to an initial recipient who exceeded the permit limitation of five (5) permits; and

(iv) The person transferring its permits also is transferring its entire charter vessel fishing business, including all the assets of that business, to the designated person that would receive the transferred permits.

(k) *Community charter halibut permit*—(1) *General.* A Community Quota Entity (CQE), as defined in § 679.2 of this title, representing an eligible community listed in paragraph (k)(2) of this section, may receive one or more community charter halibut permits. A community charter halibut permit issued to a CQE will be designated for area 2C or area 3A, will be non–transferable, and will have an angler endorsement of six (6).

(2) *Eligible communities.* Each community charter halibut permit

issued to a CQE under paragraph (k)(1) of this section will specify the name of an eligible community on the permit. Only the following communities are eligible to receive community charter halibut permits:

(i) For Area 2C: Angoon, Coffman Cove, Edna Bay, Hollis, Hoonah, Hydaburg, Kake, Kassan, Klawock, Metlakatla, Meyers Chuck, Pelican, Point Baker, Port Alexander, Port Protection, Tenakee, Thorne Bay, Whale Pass.

(ii) For Area 3A: Akhiok, Chenega Bay, Halibut Cove, Karluk, Larsen Bay, Nanwalek, Old Harbor, Ouzinkie, Port Graham, Port Lyons, Seldovia, Tatitlek, Tyonek, Yakutat.

(3) *Limitations.* The maximum number of community charter halibut permits that may be issued to a CQE for each eligible community the CQE represents is as follows:

(i) A CQE representing an eligible community or communities in regulatory area 2C may receive a maximum of four (4) community charter halibut permits per eligible community designated for Area 2C.

(ii) A CQE representing an eligible community or communities in regulatory area 3A may receive a maximum of seven (7) community charter halibut permits per eligible community designated for Area 3A.

(4) NMFS will not approve a transfer that will cause a CQE representing a community or communities to hold more than the following total number of permits, per community, including community charter halibut permits granted to the CQE under this paragraph (k) and any charter halibut permits acquired by the CQE by transfer under paragraph (i) of this section.

(i) The maximum number of charter halibut and community charter halibut permits that may be held by a CQE per community represented by the CQE in regulatory area 2C is eight (8).

(ii) The maximum number of charter halibut and community charter halibut permits that may be held by a CQE per community represented by the CQE in regulatory area 3A is fourteen (14).

(5) *Limitation on use of permits.* The following limitations apply to community charter halibut permits issued to a CQE under paragraph (k)(1) of this section.

(i) Every charter vessel fishing trip authorized by such a permit and on which halibut are caught and retained must begin or end at a location(s) specified on the application for a community charter halibut permit and that is within the boundaries of the eligible community designated on the permit. The geographic boundaries of the eligible community will be those defined by the United States Census Bureau.

(ii) Community charter halibut permits may be used only within the regulatory area for which they are designated to catch and retain halibut.

(6) *Application procedure.* To be complete, a community charter halibut permit application must be signed and dated by the applicant, and the applicant must attest that, to the best of the applicants' knowledge, all statements in the application are true and complete. An application for a community charter halibut permit will be made available by NMFS and may be submitted by mail, hand delivery, or facsimile at any time to the address(s) listed on the application. Electronic deliveries other than facsimile will not be accepted.

(l) *Military charter halibut permit.* NMFS will issue a military charter halibut permit without an angler endorsement to an applicant provided that the applicant is a Morale, Welfare and Recreation Program of the United States Armed Services.

(1) *Limitations.* A military charter halibut permit is non–transferable and may be used only in the regulatory area (2C or 3A) designated on the permit.

(2) *Application procedure.* An applicant may apply for a military charter halibut permit at any time. To be complete, a military charter halibut permit application must be signed and dated by the applicant, and the applicant must attest that, to the best of the applicants' knowledge, all statements in the application are true and complete. An application for a military charter halibut permit will be made available by NMFS and may be submitted by mail, hand delivery, or facsimile at any time to the address(s) listed on the application. Electronic deliveries other than facsimile will not be accepted.

[FR Doc. E9–9110 Filed 4–20–09; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 74, No. 75

Tuesday, April 21, 2009

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Proposed Fee Increase; Federal Lands Recreation Enhancement Act, (Title VIII, Pub. L. 108–447)

AGENCY: Chattahoochee-Oconee National Forest, USDA Forest Service.

ACTION: Notice of proposed fee increase.

SUMMARY: The Chattahoochee-Oconee National Forest is planning to increase fees from $8 per site per night to $10 per site per night for overnight camping at Dockery Lake Campground. The fee increase is only proposed and will be determined upon further analysis and public comment. This campground has eleven lake-side campsites, each with a parking spur, tent pad, fire ring, picnic table and lantern post. It also offers drinking water, toilets, picnic sites and a fishing pier. Visitor use monitoring on the Chattahoochee-Oconee National Forest has shown that people appreciate and enjoy the availability of quality outdoor camping facilities. Funds will be used to make improvements to the Dockery Lake Campground.

DATES: If approved, Dockery Lake Campground will increase fees in January 2010.

ADDRESSES: George Bain, Forest Supervisor, Chattahoochee-Oconee National Forest, 1755 Cleveland Highway, Gainesville, Georgia 30501.

FOR FURTHER INFORMATION CONTACT: Alison Koopman, Developed Recreation Program Manager, 770–297–3030. Information about proposed fee changes can also be found on the Chattahoochee-Oconee National Forest Web site: *http://www.fs.fed.us/conf/.*

SUPPLEMENTARY INFORMATION: The Federal Recreation Lands Enhancement Act (Title VII, Pub. L. 108–447) directed the Secretary of Agriculture to publish a six month advance notice in the **Federal Register** whenever new recreation fee areas are established. Once public involvement is complete, this new fee will be reviewed by a Recreation Resource Advisory Committee prior to a final decision and implementation.

Dated: April 13, 2009.

George Bain,

Forest Supervisor, Chattahoochee-Oconee National Forest.

[FR Doc. E9–9011 Filed 4–20–09; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Proposed New Fee Site; Federal Lands Recreation Enhancement Act, (Title VIII, Pub. L. 108–447)

AGENCY: Chattahoochee-Oconee National Forest, USDA Forest Service.

ACTION: Notice of proposed new fee site.

SUMMARY: The Chattahoochee-Oconee National Forest is planning to charge an $8 per site per night fee for overnight camping at Hickey Gap Campground. The fees listed are only proposed and will be determined upon further analysis and public comment. This campground has five creek-side campsites and has been available for camping use prior to this date. Visitor use monitoring on the Chattahoochee-Oconee National Forest has shown that people appreciate and enjoy the availability of quality outdoor camping facilities. Funds from the campground will be used for the continued operation and maintenance of Hickey Gap Campground.

DATES: If approved, Hickey Gap Campground will start charging fees in January 2010.

ADDRESSES: George Bain, Forest Supervisor, Chattahoochee-Oconee National Forest, 1755 Cleveland Highway, Gainesville, Georgia 30501.

FOR FURTHER INFORMATION CONTACT: Alison Koopman, Developed Recreation Program Manager, 770–297–3030. Information about proposed fee changes can also be found on the Chattahoochee-Oconee National Forest Web site: *http://www.fs.fed.us/conf/.*

SUPPLEMENTARY INFORMATION: The Federal Recreation Lands Enhancement Act (Title VII, Pub. L. 108–447) directed the Secretary of Agriculture to publish a six month advance notice in the **Federal Register** whenever new recreation fee areas are established. Once public involvement is complete, this new fee will be reviewed by a Recreation Resource Advisory Committee prior to a final decision and implementation.

Dated: April 13, 2009.

George Bain,

Forest Supervisor, Chattahoochee-Oconee National Forest.

[FR Doc. E9–9015 Filed 4–20–09; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Proposed New Fee Sites; Federal Lands Recreation Enhancement Act, (Title VIII, Pub. L. 108–447)

AGENCY: Chattahoochee-Oconee National Forest, USDA Forest Service.

ACTION: Notice of proposed new fee sites.

SUMMARY: The Chattahoochee-Oconee National Forest is planning to charge fees at two shooting range sites. One of the sites, Trembling Bridge Shooting Range, is being reconstructed and amenities are being added to improve services and experiences. The other site, Cedar Creek Shooting Range, is being constructed. Fees are assessed based on the level of amenities and services provided, cost of operation and maintenance, market assessment, and public comment. The fees listed are only proposed and will be determined upon further analysis and public comment. Funds from fees would be used for the continued operation and maintenance of these recreation sites. Trembling Bridge and Cedar Creek Shooting Ranges will be available for target practice. Amenities proposed for these facilities would include a 100 yard shooting range, parking area for ten to twenty vehicles, pathways, security fencing, a toilet, shooting shed, and benches, all which would all be accessible. A financial analysis has been completed to determine the fee of $5 per person per day, for those over the age of 16 years. Youth, 16 and under, will be allowed to use the ranges for free and must be accompanied by an adult.

Shooting ranges offer a unique experience and are a widely popular offering on National Forests. Fees would help to provide security, operations and maintenance funds.

The Chattahoochee-Oconee National Forest is also planning to offer a $25 per person per year Annual Special Recreation Permit which would allow unlimited use of shooting ranges on the Chattahoochee-Oconee National Forest for a period of one year.

DATES: If approved, Trembling Bridge and Cedar Creek Shooting Ranges will start charging fees upon their completion, scheduled in early 2010.

ADDRESSES: George Bain, Forest Supervisor, Chattahoochee-Oconee National Forest, 1755 Cleveland Highway, Gainesville, Georgia 30501.

FOR FURTHER INFORMATION CONTACT: Alison Koopman, Developed Recreation Program Manager, 770–297–3030. Information about proposed fee changes can also be found on the Chattahoochee-Oconee National Forest Web site: *http://www.fs.fed.us/conf/*.

SUPPLEMENTARY INFORMATION: The Federal Recreation Lands Enhancement Act (Title VII, Pub. L. 108–447) directed the Secretary of Agriculture to publish a six month advance notice in the **Federal Register** whenever new recreation fee areas are established. Once public involvement is complete, these new fees will be reviewed by a Recreation Resource Advisory Committee prior to a final decision and implementation.

Date: April 13, 2009.

George Bain,

Forest Supervisor, Chattahoochee-Oconee National Forest.

[FR Doc. E9–9016 Filed 4–20–09; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–801]

Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Extension of Time Limit for Final Results of the Third New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

DATES: *Effective Date:* April 20, 2009.

FOR FURTHER INFORMATION CONTACT: Alan Ray, AD/CVD Operations, Office 9, and Emeka Chukwudebe, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482–5403 and (202) 482–0219, respectively.

Background

On January 28, 2009, the Department of Commerce (''Department'') published the preliminary results of the third new shipper review for the period August 1, 2007, through January 31, 2008. *See Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Notice of Preliminary Results of the Third New Shipper Review,* 74 FR 4920 (January 28, 2009) (''*Preliminary Results*''). The final results are currently due on April 16, 2009.

Extension of Time Limits for Final Results

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (''Act''), and 19 CFR 351.214(i)(1) require the Department to issue the final results in a new shipper review of an antidumping duty order 90 days after the date on which the preliminary results are issued. The Department may, however, extend the deadline for completion of the final results of a new shipper review to 150 days if it determines that the case is extraordinarily complicated. *See* section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2).

The Department finds this case is extraordinarily complicated because a study recently placed on the record presents a number of complex factual and legal questions with regard to the surrogate value of whole fish. Therefore, the Department and interested parties need more time to analyze the study. Accordingly, because the Department requires additional time to complete the final results, we are extending the time for the completion of the final results of this review by 60 days to June 15, 2009.

This notice is published in accordance with section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2).

Dated: April 15, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–9119 Filed 4–20–09; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XO78

Marine Fisheries Advisory Committee; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of open public meeting.

SUMMARY: Notice is hereby given of a meeting of the Marine Fisheries Advisory Committee (MAFAC). This will be the first meeting to be held in the calendar year 2009. Agenda topics are provided under the SUPPLEMENTARY INFORMATION section of this notice. All full Committee sessions will be open to the public.

DATES: The meetings will be held May 12–14, 2009, from 8:30 a.m. to 5 p.m.

ADDRESSES: The meetings will be held at the Monterey Conference Center, One Portola Plaza, Monterey, CA 93940; 831–646–3770.

FOR FURTHER INFORMATION CONTACT: Mark Holliday, MAFAC Executive Director; (301) 713–2239 x–120; e-mail: *Mark.Holliday@noaa.gov*.

SUPPLEMENTARY INFORMATION: As required by section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, notice is hereby given of a meeting of MAFAC. MAFAC was established by the Secretary of Commerce (Secretary) on February 17, 1971, to advise the Secretary on all living marine resource matters that are the responsibility of the Department of Commerce. This committee advises and reviews the adequacy of living marine resource policies and programs to meet the needs of commercial and recreational fisheries, and environmental, State, consumer, academic, tribal, governmental and other national interests. The complete charter and summaries of prior meetings are located online at *http://www.nmfs.noaa.gov/ocs/mafac/*.

Matters To Be Considered

This agenda is subject to change.

The meeting will include discussion of various MAFAC administrative and organizational matters, including: subcommittee membership, chairmanship, upcoming workplans and recruitment of new members. Updates will be presented on Magnuson-Stevens Act implementation, NOAA budgets, and new administration transition

information. The Committee will hear presentations and discuss policies and guidance on the following topics: a strategic plan for seafood safety and quality; fishery disasters; ocean acidification; fisheries sustainability monitoring and measurement; NOAA and NMFS strategic planning; Regional Fishery Management Council 5–year programmatic plans; and progress on catch share programs.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mark Holliday, MAFAC Executive Director; (301) 713–2239 x120 by 5 p.m. on May 1, 2009.

Dated: April 15, 2009.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. E9–9108 Filed 4–20–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XO77

Nominations to the Marine Fisheries Advisory Committee

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; request for nominations.

SUMMARY: Nominations are being sought for appointment by the Secretary of Commerce to serve on the Marine Fisheries Advisory Committee (MAFAC or Committee) beginning in October 2009. MAFAC is the only Federal advisory committee with the responsibility to advise the Secretary of Commerce (Secretary) on all matters concerning living marine resources that are the responsibility of the Department of Commerce. The Committee makes recommendations to the Secretary to assist in the development and implementation of Departmental regulations, policies and programs critical to the mission and goals of the NMFS. Nominations are encouraged from all interested parties involved with or representing interests affected by NMFS actions in managing living marine resources. Nominees should possess demonstrable expertise in a field related to the management of living marine resources and be able to fulfill the time commitments required for two annual meetings. Individuals serve for a term of three years for no more than two consecutive terms if re-appointed. NMFS is seeking qualified nominees to fill upcoming vacancies being created by the expiration of existing appointments this October, thereby bringing the Committee to its full complement of 21 members.

DATES: Nominations must be postmarked on or before June 5, 2009.

ADDRESSES: Nominations should be sent to Dr. Mark Holliday, Executive Director, MAFAC, Office of Policy, NMFS F–14451, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Mark Holliday, MAFAC Executive Director; (301) 713–2239 x120; e-mail: *Mark.Holliday@noaa.gov*.

SUPPLEMENTARY INFORMATION: The establishment of MAFAC was approved by the Secretary on December 28, 1970, and subsequently chartered under the Federal Advisory Committee Act, 5 U.S.C. App. 2, on February 17, 1971. The Committee meets twice a year with supplementary subcommittee meetings as determined necessary by the Committee Chairperson. No less that 15 and no more than 21 individuals may serve on the Committee. Membership is comprised of highly qualified individuals representing commercial and recreational fisheries interests, environmental organizations, academic institutions, governmental, tribal and consumer groups from a balance of U.S. geographical regions, including Puerto Rico and the Western Pacific and the U.S. Virgin Islands.

A MAFAC member cannot be a Federal employee or a member of a Regional Fishery Management Council. Selected candidates must pass security checks and submit financial disclosure forms. Membership is voluntary, and except for reimbursable travel and related expenses, service is without pay.

Each submission should include the submitting person or organization's name and affiliation, a cover letter describing the nominee's qualifications and interest in serving on the Committee, a curriculum vitae and or resume of the nominee, and no more than three supporting letters describing the nominee's qualifications and interest in serving on the Committee. Self-nominations are acceptable. The following contact information should accompany each nominee's submission: name, address, phone number, fax number, and e-mail address (if available).

Nominations should be sent to (see **ADDRESSES**) and must be received by (see DATES). The full text of the Committee Charter and its current membership can be viewed at the NMFS' web page at *www.nmfs.noaa.gov/mafac.htm*.

Dated: April 15, 2009.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. E9–9109 Filed 4–20–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XO75

Marine Mammals; File No. 14483

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Ocean World, 304 US Highway 101 South, Crescent City, California 95531, has applied in due form for a permit to import three California sea lions (*Zalophus californianus*) for the purposes of public display.

DATES: Written or telefaxed comments must be received on or before May 21, 2009

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the Features box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov/index.cfm*, and then selecting File No. 14483 from the list of available applications.

The application and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 427–2521; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room

13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301)427–2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: File No. 14483.

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore or Kristy Beard, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant requests authorization to import three female California sea lions from Zoo Tiergarten Nuremberg in Nuremberg, Germany to Ocean World, Crescent City, California. The applicant requests this import for the purpose of public display. The receiving facility, Ocean World, is: (1) open to the public on a regularly scheduled basis with access that is not limited or restricted other than by charging for an admission fee; (2) offers an educational program based on professionally accepted standards; and (3) holds an Exhibitor's License, number 93–C–0389, issued by the U.S. Department of Agriculture under the Animal Welfare Act (7 U.S.C. 2131 – 59).

In addition to determining whether the applicant meets the three public display criteria, NMFS must determine whether the applicant has demonstrated that the proposed activity is humane and does not represent any unnecessary risks to the health and welfare of marine mammals; that the proposed activity by itself, or in combination with other activities, will not likely have a significant adverse impact on the species or stock; and that the applicant's expertise, facilities and resources are adequate to accomplish successfully the objectives and activities stated in the application.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: April 14, 2009.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E9–8998 Filed 4–20–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XO62

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Rocket Launches from Kodiak, AK

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice; Issuance of a Letter of Authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) and implementing regulations, notification is hereby given that a 1–year Letter of Authorization (LOA) has been issued to the Alaska Aerospace Development Corporation (AADC), to take Steller sea lions (*Eumetopias jubatus*) and Pacific harbor seals (Phoca vitulina richardsi) incidental to rocket launches from the Kodiak Launch Complex (KLC).

DATES: Effective April 15, 2009, through April 14, 2010.

ADDRESSES: The LOA and supporting documentation are available by writing to Michael Payne, Chief, Permits, Conservation, and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225, by telephoning one of the contacts listed here (see **FOR FURTHER INFORMATION CONTACT**), or online at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Howard Goldstein or Jaclyn Daly, Office of Protected Resources, NMFS, (301) 713–2289, or Brad Smith, Alaska Regional Office, NMFS, (907) 271–3023.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the National Marine Fisheries Service (NMFS) to allow, on request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued. Under the MMPA, the term ''taking'' means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture or kill marine mammals.

Authorization may be granted for periods up to five years if NMFS finds, after notification and opportunity for public comment, that the taking will have a negligible impact on the species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. In addition, NMFS must prescribe regulations that include permissible methods of taking and other means effecting the least practicable adverse impact on the species and its habitat and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance. The regulations must include requirements for monitoring and reporting of such taking.

Regulations governing the taking of Steller sea lions and harbor seals, by harassment, incidental to rocket launches at KLC, became effective on February 27, 2006 (71 FR 4297), and remain in effect until February 28, 2011. For detailed information on this action, please refer to that document. These regulations include mitigation, monitoring, and reporting requirements for the incidental taking of marine mammals during rocket launches at KLC.

Summary of Request

NMFS received a request for an LOA pursuant to the aforementioned regulations that would authorize, for a period not to exceed 1 year, take of marine mammals incidental to rocket launches at KLC.

Summary of Activity and Monitoring Under the Current LOA

In compliance with the 2008 LOA, AADC submitted a report on the rocket launches at KLC. A summary of those reports (R&M Consultants, 2008) follows.

FTX–03 Mission

Two launches were conducted at KLC between March 12, 2008, and March 11, 2009. The first was a monitored launch of a Flight Test Experimental–03 (FTX–03) long range ballistic missile on July 18, 2008 at 13:47:00 hr ADT. Aerial surveys to document marine mammals in the primary survey area (6–mile radius of the KLC launch pads) were flown using single-engine fixed-wing aircraft 1 day prior to (July 17), the day of (July 18), and 3 days (July 19–21) post launch. On July 17, 2008, video equipment and a noise monitor were deployed on the northeast side of Ugak Island, 4.2 miles (6.8 km) from the launch site, and another noise monitor was deployed on Narrow Cape , 0.9 miles (1.4 km) from the launch site. Sound level monitoring equipment at Ugak Island registered noise above general ambient levels for one minute thirty three seconds with an SEL of 89.6 dBA. The one-second broadband peak noise level was 108.3 dBC. The 1/3 octave broadband noise level peaked between 63 and 250 Hz with a maximum noise level of 90.7 dB at 100 Hz. Sound level monitoring equipment at Narrow Cape registered noise above general ambient levels for one minute fifty seconds with an SEL of 112.6 dBA. The one-second broadband peak noise level was 145.6 dBC. The 1/3 octave broadband noise level peaked between 63 and 400 Hz with a maximum noise level at 105.8 dB at 315 Hz.

Video equipment was focused on the Steller sea lion haulout on the east side of Ugak Island because no seal lions were present at the traditional haulout on the gravel spit at Ugak. This haulout was occupied by 1–5 seal lions during the aerial surveys, and 0–3 sea lions during video monitoring. However, the camera battery was depleted about two hours before the launch so the immediate effects of the launch on Steller sea lions could not be determined. However, three sea lions were seen at the haulout during the aerial survey conducted within two hours after the launch, the same number recorded when the camera battery died; therefore, if any behavioral impacts did occur, they were short lived.

Harbor seals were the most abundant marine mammal counted. Daily totals ranged from 610 seals on July 20, 2008 to 1,534 seals on July 21, 2008. The count of harbor seals before the launch (853 seals) was similar immediately post launch (840 seals). For the three days after launch, 744, 610, and 1,534 harbor seals, respectively, were sighted in the primary study area. Therefore, NMFS does not expect that the launch had a long term impact on harbor seals in the action area.

FTG–05 Mission

The second monitored launch of an Flight Test Ground-based Interceptor–05 (FTG–05) ballistic missile was conducted at KLC on December 5, 2008 at 11:04 hr ADT. Five monitoring surveys were scheduled between December 4–8, 2008; however, foul weather precluded flying from all but one day. No monitoring survey was completed pre-launch and only one survey was completed post-launch; however, one aerial survey was flown over part of the primary study area three days before the launch (December 2) prior to the designated monitoring surveys. Foul weather precluded helicopter access to Ugak Island, therefore no video equipment or sound monitoring device was deployed at this location. However, a sound level monitor was deployed on Narrow Cape. This noise monitoring device registered noise above general ambient levels for one minute forty one seconds with an SEL of 112.4 dBA. The one-second broadband peak noise level was 126.1 dBC. The 1/3 octave broadband noise level peaked between 63 and 400 Hz with a maximum noise level at 106.6 dB at 200 Hz.

Steller sea lions did not use the spit on northern Ugak Island (the traditional haulout site) during the December 7 survey; however, this has been the trend during the past few years. One sea lion was sighted during that day on the suprtidal rock on the eastern side of Ugak, the same location where they were sighted during the FTX–03 launch, as described above.

During the December 7 survey, 971 harbor seals were sighted in the primary study area. All were sighted on Ugak Island with the largest single haulout located on the northeast side of the island with 444 seals. Because only one survey was completed and no video monitoring system was set up during the FTG–05 launch, the actual impacts to Steller sea lions and harbor seals can not be determined. However, AADC did collect video monitoring data of Steller sea lions during a FTG–02 launch in 2006. During that launch, two sea lions were present on Ugak Rock. The animals raised their heads in response to launch noise, which peaked at 105.6 dBC and had an SEL of 90.1dBA over one minute and eight seconds; however, they did not flush into the water. For comparative purposes, the Narrow Cape the peak noise level during this launch was 128 dBC with a SEL of 112.5dBA over one minute 23–seconds which is comparable to the December FTG–05 launch, as described above. Therefore, NMFS anticipates that reactions of Steller sea lions, if present, were likely similar to those recorded previously.

In summary, NMFS concludes the impacts from the FTX–03 and FTG–05 flight were similar based on similar acoustic monitoring measurements from both launches. No mortality or injury was observed during the FTX–03 launch and likely did not occur during the FTG–05 launch.

Authorization

Accordingly, NMFS has issued an LOA to AADC authorizing takes of marine mammals incidental to rocket launches at the KLC. Issuance of this LOA is based on findings, described in the preamble to the final rule (71 FR 4297, January 26, 2006) and supported by information contained in AADC's required 2007 annual report, that the activities described under this LOA will result in the take of small numbers of marine mammals, have a negligible impact on marine mammal stocks, and will not have an unmitigable adverse impact on the availability of the affected marine mammal stocks for subsistence uses.

Dated: April 16, 2009.

James H. Lecky,

Director, Protected Resources, National Marine Fisheries Service.

[FR Doc. E9–9117 Filed 4–20–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF EDUCATION

Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students; Overview Information; Foreign Language Assistance Program—Local Educational Agencies With Institutions of Higher Education; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2009

Catalog of Federal Domestic Assistance (CFDA) Number: 84.293A.

DATES:

Applications Available: April 21, 2009.

Deadline for Notice of Intent to Apply: May 11, 2009.

Deadline for Transmittal of Applications: May 27, 2009.

Deadline for Intergovernmental Review: July 27, 2009.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Foreign Language Assistance Program (FLAP)

provides grants to local educational agencies (LEAs) for innovative model programs providing for the establishment, improvement, or expansion of foreign language study for elementary and secondary school students. Under this competition, as required by Public Law 111–8 (the Omnibus Appropriations Act, 2009), 5-year grants will be awarded to LEAs to work in partnership with one or more institutions of higher education (IHEs) to establish or expand articulated programs of study in languages critical to United States national security in order to enable successful students to achieve a superior level of proficiency in those languages. In addition, an LEA that receives a grant under this program must use the funds to support programs that show promise of being continued beyond the grant period and demonstrate approaches that can be disseminated to and duplicated in other LEAs. Projects supported under this program may also include a professional development component.

Priorities: This notice involves one absolute priority and four competitive preference priorities. The absolute priority is from the notice of final priority for this program, published in the **Federal Register** on May 19, 2006 (71 FR 29228). In accordance with 34 CFR 75.105(b)(2)(iv), Competitive Preference Priorities #1 through #4 are from section 5493 of the Foreign Language Assistance Act of 2001 (20 U.S.C. 7259b).

Absolute Priority: For FY 2009 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

Critical Need Languages

This priority supports projects that establish, improve or expand foreign language learning, primarily during the traditional school day, within grade kindergarten through grade 12, that exclusively teach one or more of the following less commonly taught languages: Arabic, Chinese, Korean, Japanese, Russian, and languages in the Indic, Iranian, and Turkic language families.

Competitive Preference Priorities: For FY 2009 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(ii) we give preference to an application that meets one or more of these priorities.

Note: There is no advantage to addressing all four competitive preference priorities. Creating a program around all four priorities may result in an unfocused program design. We give preference to applications describing programs that meet any one of these priorities.

These priorities are:

Competitive Preference Priority #1. Projects that include intensive summer foreign language programs for professional development.

Competitive Preference Priority #2. Projects that link non-native English speakers in the community with the schools in order to promote two-way language learning.

Competitive Preference Priority #3. Projects that make effective use of technology, such as computer-assisted instruction, language laboratories, or distance learning, to promote foreign language study.

Competitive Preference Priority #4. Projects that promote innovative activities, such as foreign language immersion, partial foreign language immersion, or content-based instruction.

Program Authority: 20 U.S.C. 7259a-7259b; Public Law 111–8 (the Omnibus Appropriations Act, 2009).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98 and 99. (b) The notice of final priority, published in the **Federal Register** on May 19, 2006 (71 FR 29228).

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $5,193,495.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2010 from the list of unfunded applicants from this competition.

Estimated Range of Awards: $100,000—$300,000.

Estimated Average Size of Awards: $200,000.

Maximum Award: We will reject any application that proposes a budget exceeding $300,000 for a single budget period of 12 months. The Assistant Deputy Secretary and Director for the Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students (OELA) may change the maximum amount through a notice published in the **Federal Register.**

Estimated Number of Awards: 26.

Note: The Department is not bound by any estimates in this notice.

Project Period: 60 months. Applications that request funding for a project period of other than 60 months will be deemed ineligible and will not be read.

III. Eligibility Information

1. *Eligible Applicants:* LEAs, including charter schools that are considered LEAs under State law, in partnership with one or more institutions of higher education.

2. *Cost Sharing or Matching:* Section 5492(c)(1) of the Foreign Language Assistance Act of 2001 (20 U.S.C. 7259a(c)(1)) requires that the Federal share of a project funded under this program for each fiscal year be 50 percent. For example, an LEA requesting $100,000 in Federal funding for its foreign language program each fiscal year must match that amount with $100,000 of non-Federal funding for each year. 34 CFR 80.24 of EDGAR addresses Federal cost-sharing requirements.

If an LEA does not have adequate resources to pay the non-Federal share of the cost, a waiver may be requested. An LEA may request a waiver of part, or all, of the matching requirement. The waiver request should be submitted by letter to the Secretary of Education and included in the application. An authorized representative of the LEA, such as the superintendent of schools, should sign the letter.

The request for waiver should—

- Provide an explanation, supported with appropriate documentation, of the basis for the LEA's position that it does not have adequate resources to pay the non-Federal share of the cost of the project.
- Specify the amount, if any, of the non-Federal share that the LEA can pay.

We recommend that LEAs that are unable to provide the required level of non-Federal support for their project provide as much non-Federal support as possible. Further information on submitting a waiver request is included in the application package.

IV. Application and Submission Information

1. *Address to Request Application Package:* Yvonne Putney-Mathieu, U.S. Department of Education, 400 Maryland Avenue, SW., room 5C138, Washington, DC 20202–6510. Telephone: (202) 401–1461 or by e-mail: *yvonne.mathieu@ed.gov.*

Note: Please include ''84.293A LEA IHE Application Request'' in the subject heading of your e-mail.

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Notice of Intent to Apply: If you intend to apply for a grant under this competition, contact Yvonne Mathieu by e-mail: *yvonne.mathieu@ed.gov.*

Note: Please include ''84.293A LEA IHE Intent to Apply'' in the subject heading of your e-mail. The e-mail should specify: (1) The LEA name, (2) city, (3) State, and (4) language(s) of instruction. We will consider an application submitted by the deadline date for transmittal of applications, even if the applicant did not provide us notice of its intent to apply.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative to the equivalent of no more than 35 pages using the following standards:

• A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.

• Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.

• Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

• Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the two-page abstract. However, the page limit does apply to all of the application narrative section in Part III.

We will reject your application if you exceed the page limit; or if you apply other standards and exceed the equivalent of the page limit.

3. *Submission Dates and Times:*

Applications Available: April 21, 2009.

Deadline for Notice of Intent to Apply: May 11, 2009.

Deadline for Transmittal of Applications: May 27, 2009.

Applications for grants under this program must be submitted electronically using the Electronic Grant Application System (e-Application) accessible through the Department's e-Grants site. For information (including dates and times) about how to submit your application electronically, or by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 6. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice. Deadline for Intergovernmental Review: July 27, 2009.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section in this notice.

6. *Other Submission Requirements:* Applications for grants under this program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Foreign Language Assistance Program—Local Educational Agencies with Institutions of Higher Education—CFDA Number 84.293A must be submitted electronically using e-Application, accessible through the Department's e-Grants Web site at: *http://e-grants.ed.gov.*

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

While completing your electronic application, you will be entering data online that will be saved into a database. You may not e-mail an electronic copy of a grant application to us.

Please note the following:

• You must complete the electronic submission of your grant application by 4:30:00 p.m., Washington, DC time, on the application deadline date. E–Application will not accept an application for this program after 4:30:00 p.m., Washington, DC time, on the application deadline date. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the application process.

• The hours of operation of the e-Grants Web site are 6:00 a.m. Monday until 7:00 p.m. Wednesday; and 6:00 a.m. Thursday until 8:00 p.m. Sunday, Washington, DC time. Please note that, because of maintenance, the system is unavailable between 8:00 p.m. on Sundays and 6:00 a.m. on Mondays, and between 7:00 p.m. on Wednesdays and 6:00 a.m. on Thursdays, Washington, DC time. Any modifications to these hours are posted on the e-Grants Web site.

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. You must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or

submit a password protected file, we will not review that material.

• Your electronic application must comply with any page limit requirements described in this notice.

• Prior to submitting your electronic application, you may wish to print a copy of it for your records.

• After you electronically submit your application, you will receive an automatic acknowledgment that will include a PR/Award number (an identifying number unique to your application).

• Within three working days after submitting your electronic application, fax a signed copy of the SF 424 to the Application Control Center after following these steps:

(1) Print SF 424 from e-Application.

(2) The applicant's Authorizing Representative must sign this form.

(3) Place the PR/Award number in the upper right hand corner of the hard-copy signature page of the SF 424.

(4) Fax the signed SF 424 to the Application Control Center at (202) 245–6272.

• We may request that you provide us original signatures on other forms at a later date.

Application Deadline Date Extension in Case of e-Application Unavailability: If you are prevented from electronically submitting your application on the application deadline date because e-Application is unavailable, we will grant you an extension of one business day to enable you to transmit your application electronically, by mail, or by hand delivery. We will grant this extension if—

(1) You are a registered user of e-Application and you have initiated an electronic application for this competition; and

(2)(a) E–Application is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the application deadline date; or

(b) E–Application is unavailable for any period of time between 3:30 p.m. and 4:30:00 p.m., Washington, DC time, on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgment of any system unavailability, you may contact either (1) the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** (see VII. Agency Contact) or (2) the e-Grants help desk at 1–888–336–8930. If e-Application is unavailable due to technical problems with the system and, therefore, the application deadline is extended, an e-mail will be sent to all registered users who have initiated an e-Application. Extensions referred to in this section apply only to the unavailability of e-Application.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through e-Application because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to e-Application; *and*

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application. If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Rebecca Richey, U.S. Department of Education, 400 Maryland Avenue, SW., room 5C144, Washington, DC 20202–6510. *Fax:* (202) 260–5496.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, *Attention:* (CFDA Number 84.293A), LBJ Basement Level 1, 400 Maryland Avenue, SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application, by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, *Attention:* (CFDA Number 84.293A), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this grant notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

Selection Criteria: The selection criteria for this program are from 34 CFR 75.210 of EDGAR and are listed in the following paragraphs. The **Notes** we have included after each criterion are guidance to assist applicants in understanding each criterion as they prepare their applications and are not required (except that Notes I and II under paragraph (b) and the note under paragraph (d) are required) by statute or regulation. The maximum score for all of these criteria is 100 points. The

maximum score for each criterion is indicated in parentheses.

(a) *Need for project.* (5 points)

The Secretary considers the need for the proposed project. In determining the need for the proposed project, the Secretary considers the extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

Notes for (a) Need for Project

Note I: In addressing this criterion, applicants may want to describe how the proposed project will address gaps or weaknesses in foreign language instruction by conducting activities, such as increasing enrollment in critical foreign languages during the course of the grant by adding languages, adding grades or course levels, recruiting students, and expanding to additional schools.

Note II: In addressing this criterion, applicants may also want to describe how the proposed project will improve instruction; for example, by hiring highly qualified teachers, improving teacher skills through professional development, expanding the curriculum, and increasing the minutes of instruction per day or week.

(b) *Quality of the project design.* (60 points)

The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(1) The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice.

(2) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(3) The extent to which the design for implementing and evaluating the proposed project will result in information to guide possible replication of project activities or strategies, including information about the effectiveness of the approach or strategies employed by the project.

(4) The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance.

(5) The extent to which the proposed project will establish linkages with other appropriate agencies and organizations providing services to the target population.

(6) The extent to which the design of the proposed project includes a thorough, high-quality review of the relevant literature, a high-quality plan for project implementation, and the use of appropriate methodological tools to ensure successful achievement of project objectives.

Notes for (b) Quality of the Project Design

Note I: Under this competition, as required by Public Law 111–8 (the Omnibus Appropriations Act, 2009), 5-year grants will be awarded to LEAs to work in partnership with one or more institutions of higher education (IHEs) to establish or expand articulated programs of study in languages critical to United States national security in order to enable successful students to achieve a superior level of proficiency in those languages.

Note II: Please note that Title V, Part D, Subpart 9, section 5492 of the Elementary and Secondary Education Act of 1965, as amended, requires the establishment, improvement or expansion of foreign language study for elementary and secondary students; supports programs that show the promise of being continued beyond the grant period; and supports programs that demonstrate approaches that can be disseminated and duplicated in other LEAs. Projects supported under this program may also include a professional development component.

Note III: In addressing this criterion, applicants may want to consider describing how the project is aligned with standards for foreign language learning and performance guidelines for K–12 learners, is articulated across grade levels, and is designed to ensure that students will, when they graduate from high school, have the skills needed to achieve a superior level of foreign language proficiency by the end of an undergraduate program.

Note IV: In addressing this criterion, applicants may want to consider describing the specific definition to be used for an articulated program of study. For example: Each grade level of the elementary-school-through-college foreign language program is designed to expand sequentially on the achievement students have made in the previous level, with a goal of achieving a superior level of language proficiency.

Note V: In addressing this criterion, applicants may want to consider describing the specific definition to be used for a superior level of language proficiency. For example: A proficiency level of 3, as measured by the Federal Interagency Language Roundtable (ILR); or a Superior level, as measured by the American Council on the Teaching of Foreign Languages (ACTFL) Proficiency Guidelines, achieved by a student.

Note VI: In addressing this criterion, applicants may want to describe planned assessments to be selected or developed, how they are standards-based and performance-based, and how they are appropriate for measuring student language proficiency in the planned model of instruction and targeted languages.

Note VII: In addressing this criterion, applicants may want to consider describing a plan to carry out activities under the grant as part of their required partnership with one or more IHEs; such as including how each partner will be involved in the planning, development, and implementation of the project; the resources to be provided by each partner; the rationale for selecting the partner(s); and the specific activities (such as curriculum development, assessment development and professional development) that the partner(s) will contribute to the grant during each year of the project.

Note VIII: In addressing this criterion, the applicant may want to describe how program objectives are aligned with the Government Performance and Results Act (GPRA) measures for this program.

Notice IX: In addressing this criterion, applicants may want to consider discussing how the project design is based on a review of the relevant literature to include available curriculum and instructional materials in the target language.

(c) *Quality of project personnel.* (10 points)

The Secretary considers the quality of the personnel who will carry out the proposed project. In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. In addition, the Secretary considers the following factors:

(1) The qualifications, including relevant training and experience, of the project director or principal investigator.

(2) The qualifications, including relevant training and experience, of key project personnel.

(d) *Quality of the management plan.* (10 points)

The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(1) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(2) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and

adequate to meet the objectives of the proposed project.

Note for (d) Quality of the management plan

Please note that 34 CFR 75.112(b) of EDGAR requires an applicant to include a narrative that describes how and when, in each budget period of the project, the applicant plans to meet each project objective.

(e) *Quality of the project evaluation.* (15 points)

The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

(1) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(2) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(3) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(4) The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other settings.

Note for (e) Quality of the project evaluation

Grantees will be expected to report on the progress of their evaluation through the required annual performance report as discussed in section VI.4 of this notice. In addressing this criterion, applicants may want to consider using the evaluation plan to shape the development of the project from the beginning of the grant period. Applicants also may want to include benchmarks to monitor progress toward specific project objectives, including ambitious student foreign language proficiency objectives, and outcome measures to assess the impact on teaching and learning or other important outcomes for project participants.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Grant Administration:* Applicants are encouraged to budget for a two-day meeting for project directors in Washington, DC and attending a FLAP meeting at the American Council on the Teaching of Foreign Languages (ACTFL) Conference in San Diego.

4. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. You must also submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:* In response to the Government Performance and Results Act (GPRA), the Department developed three objectives for evaluating the overall effectiveness of the Foreign Language Assistance Program (FLAP) LEA program. Grantees funded under this competition will be expected to collect and report to the Department data related to these measures. Applicants should discuss in the application narrative how they propose to collect these data.

Grantees under this competition are not expected to report on Objective 1, Measures 1.1 of 2 and 1.2 of 2.

Objective 1: To expand foreign language study in non-critical languages for students served by FLAP.

Measure 1.1 of 2: The number of students participating in foreign language instruction in the non-critical languages(s) in the schools funded by FLAP.

Measure 1.2 of 2: The average number of minutes per week of foreign language instruction in the non-critical languages(s) in the schools funded by FLAP.

Objective 2: To expand foreign language study in critical languages for students served by FLAP.

Measure 2.1 of 2: The number of students participating in foreign language instruction in the critical language(s) in the schools funded by FLAP.

Measure 2.2 of 2: The average number of minutes per week of foreign language instruction in the critical languages(s) provided in the schools funded by FLAP.

Objective 3: To improve the foreign language proficiency of students served by FLAP.

Measure 3.1 of 1: The number of students in FLAP projects who meet ambitious project objectives for foreign language proficiency.

We will expect each LEA funded under this competition to document how its project is helping the Department meet these performance measures. Grantees will be expected to report on progress in meeting these performance measures in their Annual Performance Report and in their Final Performance Report.

VII. Agency Contacts

FOR FURTHER INFORMATION CONTACT: Rebecca Richey, U.S. Department of Education, 400 Maryland Avenue, SW., room 5C144, Washington, DC 20202–6510. *Telephone:* (202) 401–1443 or by *e-mail: rebecca.richey@ed.gov* or Cynthia Ryan, U.S. Department of Education, 400 Maryland Avenue, SW., room 5C140, Washington, DC 20202–6510. *Telephone:* (202) 401–1436 or by *e-mail: cynthia.ryan@ed.gov.*

If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) on request to the program contact persons listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register,** in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal**

Register. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: April 16, 2009.

Richard Smith,

Acting Assistant Deputy Secretary and Director, Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students.

[FR Doc. E9–9132 Filed 4–20–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students; Overview Information; Foreign Language Assistance Program—Local Educational Agencies

Notice inviting applications for new awards for fiscal year (FY) 2009.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.293B.

DATES:

Applications Available: April 21, 2009.

Deadline for Notice of Intent to Apply: May 11, 2009.

Deadline for Transmittal of Applications: May 27, 2009.

Deadline for Intergovernmental Review: July 27, 2009.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Foreign Language Assistance Program (FLAP) provides grants to local educational agencies (LEAs) for innovative model programs providing for the establishment, improvement, or expansion of foreign language study for elementary and secondary school students. An LEA that receives a grant under this program must use the funds to support programs that show promise of being continued beyond the grant period and demonstrate approaches that can be disseminated to and duplicated in other LEAs. Projects supported under this program may also include a professional development component.

Priorities: This notice involves six competitive preference priorities and two invitational priorities. Competitive Preference Priority #1 is from the notice of final priority for this program published in the **Federal Register** on May 19, 2006 (71 FR 29228). In accordance with 34 CFR 75.105(b)(2)(iv), Competitive Preference Priorities #2 through #6 are from section 5493 of the Foreign Language Assistance Act of 2001 (20 U.S.C. 7259b).

Competitive Preference Priority #1. For FY 2009 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i) we award up to an additional 10 points to an application, depending on how well the application meets this priority.

This priority is:

Competitive Preference Priority #1—Critical Need Languages

This priority supports projects that establish, improve, or expand foreign language learning, primarily during the traditional school day, within grade kindergarten through grade 12, and that exclusively teach one or more of the following less commonly taught languages: Arabic, Chinese, Korean, Japanese, Russian, and languages in the Indic, Iranian, and Turkic language families.

Competitive Preference Priorities #2 through #6: For FY 2009 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(ii) we give preference to an application that meets one or more of these priorities.

Note: There is no advantage to addressing all of Competitive Preference Priorities #2 through #6. Creating a program around all five priorities may result in an unfocused program design. We give preference to applications describing programs that meet any one of these priorities.

These priorities are:

Competitive Preference Priority #2. Projects that include intensive summer foreign language programs for professional development.

Competitive Preference Priority #3. Projects that link non-native English speakers in the community with the schools in order to promote two-way language learning.

Competitive Preference Priority #4. Projects that promote the sequential study of a foreign language for students, beginning in elementary schools.

Competitive Preference Priority #5. Projects that make effective use of technology, such as computer-assisted instruction, language laboratories, or distance learning, to promote foreign language study.

Competitive Preference Priority #6. Projects that promote innovative activities, such as foreign language immersion, partial foreign language immersion, or content-based instruction.

Invitational Priorities: Within Competitive Preference Priorities #1 through #6, we are particularly interested in applications that address the following priorities. For FY 2009 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are invitational priorities. Under 34 CFR 75.105(c)(1) we do not give an application that meets one or more of these invitational priorities a competitive or absolute preference over other applications.

These priorities are:

Invitational Priority #1.

Applicants that propose to develop high levels of student foreign language proficiency through increased instructional time in the foreign language, research-based instructional practices, and opportunities that enhance classroom instruction such as community-based activities and study-abroad experiences.

Invitational Priority #2. Applicants that propose to collaborate with an institution of higher education to provide professional development for foreign language teachers, which may include teacher ''action research'' projects, coursework designed to assist teachers in meeting certification or licensure requirements, or long-term professional development to improve teacher instruction and assessment strategies.

Program Authority: 20 U.S.C. 7259a–7259b.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 84, 85, 97, 98 and 99. (b) The notice of final priority, published in the **Federal Register** on May 19, 2006 (71 FR 29228).

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $8,602,733.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2010 from the list of unfunded applicants from this competition.

Estimated Range of Awards: $100,000—$300,000.

Estimated Average Size of Awards: $200,000.

Maximum Award: We will reject any application that proposes a budget exceeding $300,000 for a single budget period of 12 months. The Assistant Deputy Secretary and Director for the Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students (OELA) may change

the maximum amount through a notice published in the **Federal Register.**

Estimated Number of Awards: 43.

Note: The Department is not bound by any estimates in this notice.

Project Period: 36 months. Applications that request funding for a project period of other than 36 months will be deemed ineligible and will not be read.

III. Eligibility Information

1. *Eligible Applicants:* LEAs, including charter schools that are considered LEAs under State law.

2. *Cost Sharing or Matching:* Section 5492(c)(1) of the Foreign Language Assistance Act of 2001 (20 U.S.C. 7259a(c)(1)) requires that the Federal share of a project funded under this program for each fiscal year be 50 percent. For example, an LEA requesting $100,000 in Federal funding for its foreign language program each fiscal year must match that amount with $100,000 of non-Federal funding for each year. 34 CFR 80.24 of EDGAR addresses Federal cost-sharing requirements.

If an LEA does not have adequate resources to pay the non-Federal share of the cost, a waiver may be requested. An LEA may request a waiver of part, or all, of the matching requirement. The waiver request should be submitted by letter to the Secretary of Education and included in the application. An authorized representative of the LEA, such as the superintendent of schools, should sign the letter.

The request for waiver should—

• Provide an explanation, supported with appropriate documentation, of the basis for the LEA's position that it does not have adequate resources to pay the non-Federal share of the cost of the project.

• Specify the amount, if any, of the non-Federal share that the LEA can pay.

We recommend that LEAs that are unable to provide the required level of non-Federal support for their project provide as much non-Federal support as possible. Further information on submitting a waiver request is included in the application package.

IV. Application and Submission Information

1. *Address to Request Application Package:* Patrice Swann, U.S. Department of Education, 400 Maryland Avenue, SW., room 5C146, Washington, DC 20202–6510.

Telephone: (202) 401–1463 or by *e-mail: patrice.swann@ed.gov.*

Note: Please include ''84.293B FLAP LEA Application Request'' in the subject heading of your e-mail.

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or computer diskette) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Notice of Intent to Apply: If you intend to apply for a grant under this competition, contact Patrice Swann by e-mail: *patrice.swann@ed.gov.*

Note: Please include ''84.293B FLAP LEA Intent to Apply'' in the subject heading of your e-mail. The e-mail should specify: (1) The LEA name, (2) city, (3) State, and (4) language(s) of instruction. We will consider an application submitted by the deadline date for transmittal of applications, even if the applicant did not provide us notice of its intent to apply.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative to the equivalent of no more than 35 pages using the following standards:

• A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.

• Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.

• Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

• Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the two-page abstract. However, the page limit does apply to all of the application narrative section in Part III.

We will reject your application if you exceed the page limit; or if you apply other standards and exceed the equivalent of the page limit.

3. *Submission Dates and Times:*

Applications Available: April 21, 2009.

Deadline for Notice of Intent to Apply: May 11, 2009.

Deadline for Transmittal of Applications: May 27, 2009.

Applications for grants under this program must be submitted electronically using the Electronic Grant Application System (e-Application) accessible through the Department's e-Grants site. For information (including dates and times) about how to submit your application electronically, or by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV.6. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: July 27, 2009.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section in this notice.

6. *Other Submission Requirements:*

Applications for grants under this program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Foreign Language Assistance Program—Local Educational Agencies, CFDA number 84.293B, must be submitted electronically using e-Application, accessible through the Department's e-Grants Web site at: *http://e-grants.ed.gov.*

We will reject your application if you submit it in paper format unless, as

described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

While completing your electronic application, you will be entering data online that will be saved into a database. You may not e-mail an electronic copy of a grant application to us.

Please note the following:

• You must complete the electronic submission of your grant application by 4:30:00 p.m., Washington, DC time, on the application deadline date. E-Application will not accept an application for this program after 4:30:00 p.m., Washington, DC time, on the application deadline date. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the application process.

• The hours of operation of the e-Grants Web site are 6:00 a.m. Monday until 7:00 p.m. Wednesday; and 6:00 a.m. Thursday until 8:00 p.m. Sunday, Washington, DC time. Please note that, because of maintenance, the system is unavailable between 8:00 p.m. on Sundays and 6:00 a.m. on Mondays, and between 7:00 p.m. on Wednesdays and 6:00 a.m. on Thursdays, Washington, DC time. Any modifications to these hours are posted on the e-Grants Web site.

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. You must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or submit a password protected file, we will not review that material.

• Your electronic application must comply with any page limit requirements described in this notice.

• Prior to submitting your electronic application, you may wish to print a copy of it for your records.

• After you electronically submit your application, you will receive an automatic acknowledgment that will include a PR/Award number (an identifying number unique to your application).

• Within three working days after submitting your electronic application, fax a signed copy of the SF 424 to the Application Control Center after following these steps:

(1) Print SF 424 from e-Application.

(2) The applicant's Authorizing Representative must sign this form.

(3) Place the PR/Award number in the upper right hand corner of the hard-copy signature page of the SF 424.

(4) Fax the signed SF 424 to the Application Control Center at (202) 245–6272.

• We may request that you provide us original signatures on other forms at a later date.

Application Deadline Date Extension in Case of e-Application Unavailability: If you are prevented from electronically submitting your application on the application deadline date because e-Application is unavailable, we will grant you an extension of one business day to enable you to transmit your application electronically, by mail, or by hand delivery. We will grant this extension if—

(1) You are a registered user of e-Application and you have initiated an electronic application for this competition; and

(2)(a) E–Application is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the application deadline date; or

(b) E-Application is unavailable for any period of time between 3:30 p.m. and 4:30:00 p.m., Washington, DC time, on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgment of any system unavailability, you may contact either (1) the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** (see VII. Agency Contact) or (2) the e-Grants help desk at 1–888–336–8930. If e-Application is unavailable due to technical problems with the system and, therefore, the application deadline is extended, an e-mail will be sent to all registered users who have initiated an e-Application. Extensions referred to in this section apply only to the unavailability of e-Application.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through e-Application because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to e-Application; *and*

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application. If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Rebecca Richey, U.S. Department of Education, 400 Maryland Avenue, SW., room 5C144, Washington, DC 20202–6510. FAX: (202) 260–5496.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, *Attention:* (CFDA Number 84.293B), LBJ Basement Level 1, 400 Maryland Avenue, SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application, by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, *Attention:* (CFDA Number 84.293B), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this grant notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

Selection Criteria: The selection criteria for this program are from 34 CFR 75.210 of EDGAR and are listed in the following paragraphs. The Notes we have included after each criterion are guidance to assist applicants in understanding each criterion as they prepare their applications and are not required (except that Note I under paragraph (b) and the note under paragraph (d) are required) by statute or regulation. The maximum score for all of these criteria is 100 points. The maximum score for each criterion is indicated in parentheses.

(a) *Need for project.* (5 points)

The Secretary considers the need for the proposed project. In determining the need for the proposed project, the Secretary considers the extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

Notes for (a) Need for project

Note I: In addressing this criterion, applicants may also want to describe how the proposed project will address gaps or weaknesses in foreign language instruction by conducting activities, such as increasing enrollment in foreign languages during the course of the grant by adding languages, adding grades or course levels, recruiting students, and expanding to additional schools.

Note II: In addressing this criterion, applicants may also want to describe how the proposed project will improve instruction; for example, by hiring highly qualified teachers, improving teacher skills through professional development, expanding the curriculum, and increasing the minutes of instruction per day or week.

(b) *Quality of the project design.* (60 points)

The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(1) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(2) The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance.

(3) The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice.

(4) The extent to which the proposed project will establish linkages with other appropriate agencies and organizations providing services to the target population.

(5) The extent to which the design of the proposed project includes a thorough, high-quality review of the relevant literature, a high-quality plan for project implementation, and the use of appropriate methodological tools to ensure successful achievement of project objectives.

Notes for (b) Quality of the project design

Note I: Please note that Title V, Part D, Subpart 9, section 5492 of the Elementary and Secondary Education Act of 1965, as amended, requires the establishment, improvement or expansion of foreign language study for elementary and secondary students; supports programs that show the promise of being continued beyond the grant period; and supports programs that demonstrate approaches that can be disseminated and duplicated in other LEAs. Projects supported under this program may also include a professional development component.

Note II: In addressing this criterion, applicants may want to describe how performance objectives are ambitious, but realistic; raise expectations for student achievement; provide ways for students to demonstrate progress each year of the grant; and are achievable using the target languages, planned model of instruction and contact hours in the targeted languages.

Note III: In addressing this criterion, the applicant may want to describe how program objectives are aligned with the Government Performance and Results Act (GPRA) measures for this program.

Note IV: In addressing this criterion, applicants may want to consider describing how the project is aligned with standards for foreign language learning and performance guidelines for K–12 learners.

Note V: In addressing this criterion, applicants may want to describe planned assessments to be selected or developed, how they are standards-based and performance-based, and how they are appropriate for measuring student language proficiency in the planned model of instruction and targeted languages.

Note VI: In addressing this criterion, applicants may want to consider discussing how the project design is based on a review of the relevant literature to include available curriculum and instructional materials in the target language.

(c) *Quality of project personnel.* (10 points)

The Secretary considers the quality of the personnel who will carry out the proposed project. In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. In addition, the Secretary considers the following factors:

(1) The qualifications, including relevant training and experience, of the project director or principal investigator.

(2) The qualifications, including relevant training and experience, of key project personnel.

(d) *Quality of the Management Plan.* (10 points)

The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(1) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(2) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

Note for (d) Quality of the Management Plan

Please note that 34 CFR 75.112(b) of EDGAR requires an applicant to include a narrative that describes how and when, in each budget period of the project, the applicant plans to meet each project objective.

(e) *Quality of the project evaluation.* (15 points)

The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

(1) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(2) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(3) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(4) The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other settings.

Note for (e) Quality of the Project Evaluation

Grantees will be expected to report on the progress of their evaluation through the required annual performance report as discussed in section VI.4 of this notice.

In addressing this criterion, applicants may want to consider using the evaluation plan to shape the development of the project from the beginning of the grant period. Applicants also may want to include benchmarks to monitor progress toward specific project objectives, including ambitious student foreign language proficiency objectives, and outcome measures to assess the impact on teaching and learning or other important outcomes for project participants.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Grant Administration:* Applicants are encouraged to budget for a two-day meeting for project directors in Washington, DC, and attending a FLAP meeting at the American Council on the Teaching of Foreign Languages (ACTFL) Conference in San Diego.

4. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. You must also submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:* In response to the Government Performance and Results Act (GPRA), the Department developed three objectives for evaluating the overall effectiveness of the Foreign Language Assistance Program (FLAP) LEA program.

Objective 1: To expand foreign language study in non-critical languages for students served by FLAP.

Measure 1.1 of 2: The number of students participating in foreign language instruction in the non-critical language(s) in the schools funded by FLAP.

Measure 1.2 of 2: The average number of minutes per week of foreign language instruction in the non-critical language(s) in the schools funded by FLAP.

Objective 2: To expand foreign language study in critical languages for students served by FLAP.

Measure 2.1 of 2: The number of students participating in foreign language instruction in the critical language(s) in the schools funded by FLAP.

Measure 2.2 of 2: The average number of minutes per week of foreign language instruction in the critical language(s) in the schools funded by FLAP.

Objective 3: To improve the foreign language proficiency of students served by FLAP.

Measure 3.1 of 1: The number of students in FLAP projects who meet ambitious project objectives for foreign language proficiency.

We will expect each LEA funded under this competition to document how its project is helping the Department meet these performance measures. Grantees will be expected to report on progress in meeting these performance measures in their Annual Performance Report and in their Final Performance Report.

VII. Agency Contacts

FOR FURTHER INFORMATION CONTACT: Non-critical language applicants should contact Trini Torres-Carrion, U.S. Department of Education, 400 Maryland Avenue, SW., room 5C145, Washington, DC 20202–6510. *Telephone:* (202) 401–1445 or by *e-mail: trinidad.torres-carrion@ed.gov.* Critical language applicants should contact Diana Schneider, U.S. Department of Education, 400 Maryland Avenue, SW., room 5C139, Washington, DC 20202–6510. *Telephone:* (202) 401–1456 or by *e-mail: diana.schneider@ed.gov.*

If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) on request to the program contact persons listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Electronic Access to This Document: You can view this document, as well as

all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: April 16, 2009.

Richard Smith,

Acting Assistant Deputy Secretary and Director, Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students.

[FR Doc. E9–9147 Filed 4–20–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Whistling Ridge Energy Project

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of Intent to prepare an Environmental Impact Statement (EIS) and floodplain and wetland involvement.

SUMMARY: This notice announces BPA's intention to prepare a joint National Environmental Policy Act (NEPA)/State Environmental Policy Act (SEPA) EIS with the Washington Energy Facility Site Evaluation Council (EFSEC) for a proposed 75 megawatt (MW) wind energy generation project to be located on 1,152 acres in Skamania County, Washington. This project, referred to as the Whistling Ridge Energy Project, has been proposed by Whistling Ridge Energy LLC (WRE or ''applicant''). The joint EIS will address Washington EFSEC's proposed action of granting necessary permits and approvals for siting WRE's proposed project, as well as BPA's proposed action of allowing the electrical interconnection of WRE's proposed project to the Federal Columbia River Transmission System (FCRTS). BPA will act as the federal lead agency under NEPA and the Washington EFSEC will act as the state lead agency under SEPA.

In accordance with DOE regulations for compliance with floodplain and wetland environmental review requirements, BPA will prepare a floodplain and wetland assessment as necessary to avoid or minimize potential harm to or within any affected floodplains and wetlands. The assessment will be included in the EIS being prepared for the proposed project in accordance with the NEPA.

DATES: Written comments are due to the address below no later than May 18, 2009. Comments may also be made at an EIS scoping meeting to be held on May 6, 2009, at the address below.

ADDRESSES: Send letters with comments and suggestions on the proposed scope of the Whistling Ridge Energy Project Draft EIS (DOE/EIS–0419), and requests to be placed on the project mailing list, to Bonneville Power Administration, Public Affairs Office—DKC–7, P.O. Box 14428, Portland, OR 97293–4428. You may also call BPA's toll-free comment line at 1–800–622–4519, and record your comments, naming this project. Comments can be submitted online at: *www.bpa.gov/comment.*

On May 6, 2009, in Stevenson, Washington, a public meeting/scoping meeting will be held from 6:30 p.m. to 8:30 p.m. at the Rock Creek Center, 710 SW. Rock Creek Drive, Stevenson, Washington 98648. At this informal meeting, information, including maps, will be provided about the project, and members of the project team will be available to answer questions and accept oral and written comments.

FOR FURTHER INFORMATION CONTACT: Andrew M. Montaño, Bonneville Power Administration, KEC–4, P.O. Box 3621, Portland, Oregon 97208–3621; toll-free telephone number 1–800–282–3713; fax number 503–230–5699; e-mail address *ammontano@bpa.gov.*

SUPPLEMENTARY INFORMATION: WRE has proposed the 75–MW Whistling Ridge Energy Project on commercial forestland in an unincorporated area of Skamania County, Washington. The proposed wind energy generation facility, to be built and operated by WRE, would be located approximately 7 miles northwest of the City of White Salmon. The Project site is outside the Columbia Gorge National Scenic Area, and encompasses roughly 1,152 acres in Sections 5, 6, 7, 8, and 18 of Township 3 North, Range 10 East, and in Section 13 of Township 3 North, Range 9 East, Willamette Meridian.

The Project would consist of up to approximately 50, 1.2– to 2.5–MW wind turbines, as well as infrastructure such as newly-constructed and improved roads, transformers, underground collector lines, a substation, and an operations and maintenance (O&M) facility. Each turbine would be up to 426 feet tall (measured from the ground to the turbine blade tip), and would be mounted on a concrete pad. Spaced from 350 to 800 feet apart, the turbines would be grouped in strings of 3 to 21 turbines and connected by an underground electrical collector system. The turbines would operate at wind speeds ranging from 9 to 56 miles per hour (mph).

The electrical output of each string of turbines would be connected to the Project substation by underground collector cables. The Project substation would be built directly adjacent to an existing BPA transmission line interconnecting to the FCRTS.

WRE proposes that construction of the Project would begin in 2010. Access to the Project site would likely require improving some existing private logging roads and constructing several miles of new gravel roads on private land. During construction, about 330 workers would be employed. During its year-round operation, there would be eight to nine permanent full-time and/or part-time employees on the Operations and Maintenance staff. The Project is expected to function for at least 30 years.

Washington EFSEC has siting jurisdiction over WRE's proposed project. EFSEC has determined that it will prepare an EIS to analyze the potential environmental impacts of the proposed project. This EIS will inform EFSEC's decision whether or not to grant the necessary permits and approvals for siting WRE's proposed project.

BPA's Proposed Action: BPA has received a request from SDS Lumber Company (SDS) (parent company to WRE) to interconnect the proposed Project to the FCRTS. This request is referenced as Request No. G0108 in BPA's Generator Interconnection Queue. In order to allow this interconnection, BPA would need to grant the applicant's request for generation interconnection. Granting this request would involve offering contract terms to the applicant for this interconnection. Thus, BPA's proposed action is to offer contract terms for the proposed interconnection.

Alternatives Proposed for Consideration: The alternatives under consideration by BPA include the proposed action and a no-action alternative. For BPA, the proposed action alternative is to offer contract terms for the interconnection of the Project to BPA's transmission system.

The no-action alternative is for BPA to deny WRE's request that BPA offer contract terms for this interconnection. The scoping process may help identify other alternatives suitable for consideration in the EIS.

Process to Date: WRE has filed an application for a site certificate to construct the Project. Surveys for sensitive plant and wildlife species and cultural resources were initiated in the spring of 2001 and have been ongoing. Scoping will help identify what additional studies will be needed for the Project and the interconnection.

Public Participation and Identification of Environmental Issues: The potential issues of concern identified for most wind projects include visual issues, noise levels, impacts to cultural resources, socio-economic ramifications, effects on rare plant and animal species, and impacts to wildlife, including migratory birds and bats. The joint EIS will assess these potential impacts for the proposed Project, as well as potential environmental impacts from the proposed interconnection. Other issues, identified during scoping, will also be addressed in the EIS.

When completed, a Draft EIS will be circulated for review and comment, and BPA and EFSEC will hold at least one combined public comment meeting for the Draft EIS. BPA and EFSEC will consider and respond in the Final EIS to comments received on the Draft EIS. BPA's subsequent decision will be documented in a Record of Decision.

Issued in Portland, Oregon, on April 13, 2009.

Stephen J. Wright,

Administrator and Chief Executive Officer.

[FR Doc. E9–9096 Filed 4–20–09; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Leaning Juniper II Wind Project

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of Record of Decision (ROD).

SUMMARY: This notice announces the availability of the ROD to offer contract terms for interconnection of up to 200 megawatts of wind generation from the Iberdrola Renewables, Inc.'s proposed Leaning Juniper II Wind Project into the Federal Columbia River Transmission System. This decision is consistent with and tiered to BPA's Business Plan Final Environmental Impact Statement (DOE/EIS–0183, June 1995), and the Business Plan Record of Decision (BP ROD, August 15, 1995). The wind project will be interconnected at BPA's Jones Canyon Switching Station (SS), about three miles southwest of Arlington, Gilliam County, Oregon. The Jones Canyon SS will provide the wind project with transmission access to BPA's McNary-Jones Canyon 230-kilovolt transmission line and the Jones Canyon-Santiam 230-kilovolt transmission line.

ADDRESSES: Copies of the ROD and EIS may be obtained by calling BPA's toll-free document request line, 1–800–622–4520. The ROD and EIS Summary are also available on our Web site, *http://www.efw.bpa.gov.*

FOR FURTHER INFORMATION CONTACT: Andrew M. Montaño, Bonneville Power Administration—KEC–4, P.O. Box 3621, Portland, Oregon 97208–3621; toll-free telephone number 1–800–622–4519; fax number 503–230–5699; or e-mail *ammontano@bpa.gov*.

Issued in Portland, Oregon, on April 3, 2009.

Stephen J. Wright,

Administrator and Chief Executive Officer.

[FR Doc. E9–9094 Filed 4–20–09; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 459–264]

AmerenUE; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

April 14, 2009.

a. *Type of Application:* Non-project use of project lands and waters.

b. *Project Number:* 459–264.

c. *Date Filed:* April 2, 2009.

d. *Applicant:* AmerenUE.

e. *Name of Project:* Osage Hydroelectric Project.

f. *Location:* The proposed non-project use is located at mile marker 25 + 0.7 of Kinchlow Hollow on the Lake of the Ozarks, in Camden County, Missouri.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Jeff Green, Shoreline Supervisor, Ameren/UE, P.O. Box 993, Lake Ozark, MO 65049, (573) 365–9214.

i. *FERC Contact:* Any questions on this notice should be addressed to Shana High at (202) 502–8674.

j. *Deadline for filing comments and or motions:* May 15, 2009.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

k. *Description of Request:* Union Electric Company, dba AmerenUE, filed an application seeking Commission authorization to permit three existing docks that were installed in 2006 without proper authorization and agency review. The three docks, which would be permitted to DIM, LLC, serve a multi-family residential development, and accommodate a total of 36 boats. No dredging, fuel dispensing, or sewage pumping facilities were performed or installed, nor are any proposed. This application was filed after consultation with the appropriate agencies.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field (P–459) to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3372 or e-mail *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit

comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–9084 Filed 4–20–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12632–001]

East Texas Electric Cooperative, Inc.; Notice of License Application and Applicant Prepared Environmental Assessment (APEA) Filed With the Commission and Soliciting Comments and Preliminary Terms and Conditions, Recommendations, and Prescriptions

April 14, 2009.

Take notice that the following hydroelectric application and applicant-prepared environmental assessment have been filed with the Commission and is available for public inspection:

a. *Type of Application:* Original Major License—Existing Dam.

b. *Project No.:* 12632–001.

c. *Date Filed:* March 31, 2009.

d. *Applicant:* East Texas Electric Cooperative, Inc. (Cooperative).

e. *Name of Project:* Lake Livingston Hydroelectric Project.

f. *Location:* On the Trinity River, in San Jacinto, Polk, Trinity, and Walker Counties, Texas. The project would not occupy any federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Edd Hargett, East Texas Electric Cooperative, Inc., 2905 Westward Drive, P.O. Box 631623, Nacogdoches, TX 75963; (936) 560–9532; *eddh@gtpower.com.*

i. *FERC Contact:* Sarah Florentino at (202) 502–6863 or *sarah.florentino@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and Tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. *The proposed project would use the following existing facilities:* (1) The Trinity River Authority's (TRA) existing 14,400-foot-long (approximate) Lake Livingston dam, which has a crest elevation of 145.0 feet mean sea level (msl) and consists of (a) a basic earth embankment section, (b) outlet works, and (c) a spillway; and (2) the 83,000-acre Lake Livingston, which has a normal water surface elevation of 131.0 feet msl and gross storage capacity of 1,750,000 acre-feet.

The proposed project would consist of the following new facilities: (1) An intake structure and headrace channel approximately 800 feet long; (2) three steel penstocks, about 14 feet in diameter and 450 feet in length; (3) a powerhouse containing three generating units, having a total installed capacity of 24 MW; (4) an approximate 2,000-feet-long tailrace channel; (5) an approximate 2.5-mile-long, 138-kilovolt transmission line interconnecting the project with Entergy's existing Rich substation near Goodrich; and (6) an electric switchyard and other appurtenant facilities. The project would have an estimated annual generation of 124.030 gigawatt-hours, which the Cooperative would sell at wholesale to its constituent electric cooperatives.

l. The application has not been accepted for filing and is not ready for environmental analysis at this time.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov,* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field, to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. The Cooperative has distributed a copy of the license application and APEA to interested entities. Copies of these documents are also available for review at the Sam Houston Electric Cooperative, 1157 East Church Street, Livingston, Texas 77351.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. With this notice we are soliciting preliminary terms, conditions, recommendations, prescriptions, and comments on the license application and APEA. All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. In addition, all comments on the license application and APEA should be sent to the address in item (h). All filings must (i) include the project name and number, (ii) bear the heading ''Preliminary Comments,'' ''Preliminary Recommendations,'' ''Preliminary Terms and Conditions,'' or ''Preliminary Prescriptions,'' (iii) furnish the name, address, and telephone number of the person submitting the filing, and (iv) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, preliminary recommendations, terms and conditions, or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFS 4.34(b). Any entity interested in commenting on the license application and APEA must do so within 60 days from the date of filing of the license application (or by June 13, 2009).

Comments and preliminary recommendations, terms and conditions, and prescriptions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link. For a simpler method of submitting text only comments, click on ''Quick Comment.''

o. With this notice, we are initiating consultation with the Texas State Historic Preservation Officer (SHPO), as required by § 106 of the National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

p. *Procedural Schedule:* The application will be processed according to the following Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

Issue Acceptance Letter and Notice Soliciting Final Comments, Terms and Conditions, etc	August 2009.
Notice of Availability of the Draft (or Potential Single) EA	February 2010.
Notice of Availability of the Final EA (if necessary)	August 2010.

q. *Other Agency Authorizations:* A Texas Coastal Zone consistency certification is required for the Lake Livingston Project. The Cooperative certifies that the project is consistent with the Texas Coastal Management Program goals and policies and would be conducted in a manner consistent with said program.

In addition, a Texas Commission on Environmental Quality (Texas CEQ) section 401 Water Quality Certification is required. As part of its processing of the license application, the Texas CEQ is reviewing the application under Section 401 of the Clean Water Act (CWA), and in accordance with Title 30, Texas Administrative Code Section 279.1–13, to determine if the work would comply with State water quality standards. Based on an understanding between the Federal Energy Regulatory Commission (FERC) and the Texas CEQ, this public notice is also issued for the purpose of advising all known interested persons that there is pending before the Texas CEQ a decision on the request for section 401 water quality certification for this FERC license application. Any comments concerning this certification request may be submitted to the Texas Commission on Environmental Quality, 401 Coordinator, MSC–150, P.O. Box 13087, Austin, Texas 78711–3087. The public comment period extends 30 days from the date of publication of this notice. A copy of the public notice with a description of work is made available for review in the Texas CEQ's Austin office. The complete application may be reviewed at the address listed in paragraph l. The Texas CEQ may conduct a public meeting to consider all comments concerning water quality if requested in writing. A request for a public meeting must contain the following information: The name, mailing address, application number, or other recognizable reference to the application, a brief description of the interest of the requester, or of persons represented by the requester; and a brief description of how the certification, if granted, would adversely affect such interest.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–9079 Filed 4–20–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 2281 and 4851]

Pacific Gas and Electric Company; Notice of Authorization for Continued Project Operation

April 14, 2009.

On March 30, 2007, Pacific Gas and Electric Company, licensee for the Woodleaf-Kanaka Junction Transmission Line and Sly Creek Transmission Line Projects, filed Applications for a New License pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. The Woodleaf-Kanaka Junction Transmission Line is located in Butte County, California, within the South Fork Feather River watershed, and the Sly Creek Transmission Line is located in the Sierra Nevada Range, also in Butte County, California.

The licenses for Project Nos. 2281 and 4851 were issued for a period ending March 31, 2009. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the projects are subject to section 15 of the FPA, notice is hereby given that annual licenses for Projects Nos. 2281 and 4851 are issued to the Pacific Gas and Electric Company for a period effective April 1, 2009 through March 31, 2010, or until the issuance of new licenses for the projects or other disposition under the FPA, whichever comes first. If issuance of new licenses (or other disposition) does not take place on or before March 31, 2010, notice is hereby given that, pursuant to 18 CFR 16.18(c), annual licenses under section 15(a)(1) of the FPA are renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise. If the projects are not subject to section 15 of the FPA, notice is hereby given that the Pacific Gas and Electric Company is authorized to continue operation of the Woodleaf-Kanaka Junction Transmission Line and Sly Creek Transmission Line Projects, until such time as the Commission acts on its application for a subsequent license.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–9083 Filed 4–20–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2088]

South Feather Water and Power Agency; Notice of Authorization for Continued Project Operation

April 14, 2009.

On March 26, 2007, South Feather Water and Power Agency, licensee for the South Feather Power Hydroelectric Project, filed an Application for a New License pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. The South Feather Hydroelectric Project is located on the South Fork Feather River, Lost Creek and Slate Creek in Butte, Yuba and Plumas counties, California.

The license for Project No. 2088 was issued for a period ending March 31, 2009. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2088 is issued to the South Feather Water and Power Agency for a period effective April 1, 2009 through March 31, 2010, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before March 31, 2010, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise. If the project is not subject to section 15 of the FPA, notice is hereby given that the South Feather Water and Power Agency is authorized to continue operation of the South Feather Power Hydroelectric Project, until such time as the Commission acts on its application for a subsequent license.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–9081 Filed 4–20–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP09–88–000]

Transcontinental Gas Pipe Line Company, LLC; Notice of Request Under Blanket Authorization

April 14, 2009.

Take notice that on March 31, 2009, Transcontinental Gas Pipe Line Company, LLC (Transco), filed a prior notice request pursuant to sections 157.205, 157.208 and 157.212 of the Federal Energy Regulatory Commission's regulations under the Natural Gas Act for authorization to construct and operate two bidirectional interconnections to allow Transco to receive regasified liquefied natural gas (LNG), under Transco's blanket certificate issued in Docket No. CP82–426–000. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Specifically, Transco proposes to design, construct, own and operate two bidirectional interconnections on Transco's mainline, one in Hart County, GA, and one in Anderson County, SC. ''The Elba Express-South Carolina Interconnection'' will allow Transco to receive regasified LNG from Elba Express Company, LLC (Elba) pipeline facilities, which transports regasified LNG from Southern LNG, Inc.'s Elba Island, GA, LNG terminal. The Hart County Interconnection will provide Transco with the ability to receive up to 1,175 MMcf/d of regasified LNG in Transco's Zone 4. The Anderson County Interconnection will provide Transco with the ability to receive up to 1,175 MMcf/d in Transco's Zone 5. Transco has estimated the total costs of Transco's proposed facilities to be approximately $25.3 million. Elba will reimburse Transco for all costs associated with such facilities.

Any questions regarding the application should be directed to Stephen A. Hatridge, Senior Counsel, Transcontinental Gas Pipe Line Company, LLC, P.O. Box 1396, Houston, TX 77251, phone: (713) 215–2312, *e-mail: Stephen.a.hatridge@williams.com.*

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–9075 Filed 4–20–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

April 14, 2009.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP09–329–001.

Applicants: Mississippi Canyon Gas Pipeline, LLC.

Description: Mississippi Canyon Gas Pipeline, LLC submits First revised Sheet 126 *et al* to FERC Gas Tariff, First Revised Volume 1.

Filed Date: 04/09/2009.

Accession Number: 20090410–0087.

Comment Date: 5 p.m. Eastern Time on Tuesday, April 21, 2009.

Docket Numbers: RP09–375–001.
Applicants: Columbia Gas Transmission, LLC.
Description: Columbia Gas Transmission, LLC submits First Revised Sheet 280 *et al* to FERC Gas Tariff, Third Revised Volume 1.
Filed Date: 04/09/2009.
Accession Number: 20090410–0085.
Comment Date: 5 p.m. Eastern Time on Tuesday, April 21, 2009.

Docket Numbers: RP09–393–002.
Applicants: Columbia Gas Transmission, LLC
Description: Columbia Gas Transmission, LLC submits Second Revised Sheet 37 to its FERC Gas Tariff, Third Revised Volume 1.
Filed Date: 04/09/2009.
Accession Number: 20090410–0086.
Comment Date: 5 p.m. Eastern Time on Tuesday, April 21, 2009.

Docket Numbers: RP09–251–001.
Applicants: Destin Pipeline Company, LLC.
Description: Destin Pipeline Company, LLC submits Substitute Third Revised Sheet No 103 to FERC Gas Tariff, Original Volume No 1 under RP09–251.
Filed Date: 04/10/2009.
Accession Number: 20090413–0148.
Comment Date: 5 p.m. Eastern Time on Wednesday, April 22, 2009.

Docket Numbers: RP09–435–001.
Applicants: Chandeleur Pipe Line Company.
Description: Chandeleur Pipe Line Company submits Twenty-Fifth Revised Sheet No 5 to the FERC Gas Tariff, Second Revised Volume No 1.
Filed Date: 04/10/2009.
Accession Number: 20090413–0149.
Comment Date: 5 p.m. Eastern Time on Wednesday, April 22, 2009.

Docket Numbers: RP09–476–000.
Applicants: Trailblazer Pipeline Company LLC.
Description: Trailblazer Pipeline Co, LLC submits Second Revised Sheet 11 to FERC Gas Tariff Fourth Volume 1.
Filed Date: 03/31/2009.
Accession Number: 20090401–0060.
Comment Date: 5 p.m. Eastern Time on Thursday April 16, 2009.

Docket Numbers: RP09–503–000.
Applicants: Kern River Gas Transmission Company.
Description: Kern River Gas Transmission Co. submits amendments to their transportation service agreements.
Filed Date: 04/08/2009.
Accession Number: 20090409–0054.
Comment Date: 5 p.m. Eastern Time on Monday, April 20, 2009.

Docket Numbers: RP09–504–000.
Applicants: Texas Gas Transmission, LLC.
Description: Texas Gas Transmission, LLC submits Third Revised Sheet No 401 *et al* FERC Gas Tariff, Third Revised Volume No 1.
Filed Date: 04/09/2009.
Accession Number: 20090410–0172.
Comment Date: 5 p.m. Eastern Time on Tuesday, April 21, 2009.

Docket Numbers: RP09–505–000.
Applicants: Texas Gas Transmission, LLC.
Description: Texas Gas Transmission, LLC submits First Revised First Revised Sheet No 2200 *et al* FERC Gas Tariff, Third Revised Volume No 1.
Filed Date: 04/09/2009.
Accession Number: 20090410–0171.
Comment Date: 5 p.m. Eastern Time on Tuesday, April 21, 2009.

Docket Numbers: RP09–506–000.
Applicants: Williston Basin Interstate Pipeline Co.
Description: Williston Basin Interstate Pipeline Co submits Eighth Revised Sheet No. 179A *et al* to FERC Electric Gas Tariff, Second Revised Volume No 1.
Filed Date: 04/10/2009.
Accession Number: 20090410–0170.
Comment Date: 5 p.m. Eastern Time on Wednesday, April 22, 2009.

Docket Numbers: RP09–507–000.
Applicants: Chandeleur Pipe Line Company.
Description: Chandeleur Pipe Line Company submits First Revised Sheet No. 74 *et al* to FERC Gas Electric Tariff, Original Volume No. 1.
Filed Date: 04/10/2009.
Accession Number: 20090410–0173.
Comment Date: 5 p.m. Eastern Time on Wednesday, April 22, 2009.

Docket Numbers: RP09–508–000.
Applicants: Texas Eastern Transmission LP.
Description: Texas Eastern Transmission, LP submits Second Revised Sheet No 809 *et al* to FERC Gas Tariff, Seventh Revised Volume No 1.
Filed Date: 04/10/2009.
Accession Number: 20090413–0150.
Comment Date: 5 p.m. Eastern Time on Wednesday, April 22, 2009.

Docket Numbers: RP09–509–000.
Applicants: Midcontinent Express Pipeline LLC.
Description: Midcontinent Express Pipeline LLC submits an amendment to an existing negotiated rate Transportation Rate Schedule FTS Agreement between MEP and Sandridge Energy, Inc.
Filed Date: 04/10/2009.
Accession Number: 20090413–0151.
Comment Date: 5 p.m. Eastern Time on Wednesday, April 22, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.

Deputy Secretary.

[FR Doc. E9–9112 Filed 4–20–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

April 10, 2009.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC07–30–001; EC09–65–000.

Applicants: KGEN Hinds LLC, KGen Hot Spring LLC, KGEN Murray I and II LLC, KGEN Sandersville LLC.

Description: Requests for Clarification, or, in the Alternative, Authorization under Section 203 of the FPA and on April 7, 2009 file and supplement to this filings.

Filed Date: 03/31/2009; 04/07/2009.

Accession Number: 20090331–5236; 20090407–5050.

Comment Date: 5 p.m. Eastern Time on Tuesday, April 28, 2009.

Docket Numbers: EC09–67–000.

Applicants: Citigroup Energy Canada ULC, San Juan Mesa Wind Project, LLC,C handler Wind Partners, LLC, Foote Creek II, LLC, Foote Creek IV, LLC, Ridge Crest Wind Partners, LLC, Terra-Gen VG Wind, LLC, Terra-Gen 251 Wind, LLC, Citigroup Energy Inc., Phibro LLC, Foote Creek III, LLC.

Description: Emergency Application of Citigroup Energy Inc., *et al.* for Authorization for Disposition of Jurisdictional Facilities and Request for Expedited Action and Effective Date of Authorization.

Filed Date: 04/09/2009.

Accession Number: 20090409–5094.

Comment Date: 5 p.m. Eastern Time on Thursday, April 30, 2009.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER03–1368–005.

Applicants: Cleco Power LLC.

Description: Cleco Power, LLC submits Notice of Cancellation of Rate Schedule 5, to be effective in 60 days.

Filed Date: 04/09/2009.

Accession Number: 20090410–0073.

Comment Date: 5 p.m. Eastern Time on Thursday, April 30, 2009.

Docket Numbers: ER06–615–047; ER07–1257–011.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corporation submits Attachment A Market Disruption Compliance.

Filed Date: 04/08/2009.

Accession Number: 20090409–0055.

Comment Date: 5 p.m. Eastern Time on Wednesday, April 29, 2009.

Docket Numbers: ER09–486–002.

Applicants: Ashtabula Wind, LLC.

Description: Refund Report of Ashtabula Wind, LLC.

Filed Date: 04/10/2009.

Accession Number: 20090410–5042.

Comment Date: 5 p.m. Eastern Time on Friday, May 01, 2009.

Docket Numbers: ER09–508–001.

Applicants: PacifiCorp.

Description: Compliance Filing of PacifiCorp under ER09–508.

Filed Date: 04/08/2009.

Accession Number: 20090408–5130.

Comment Date: 5 p.m. Eastern Time on Wednesday, April 29, 2009.

Docket Numbers: ER09–726–002.

Applicants: Vision Power, LLC.

Description: Vision Power, LLC resubmits its Substitute Original Sheet 1 to FERC Electric Tariff, Original Volume 1.

Filed Date: 04/09/2009.

Accession Number: 20090410–0070.

Comment Date: 5 p.m. Eastern Time on Thursday, April 30, 2009.

Docket Numbers: ER09–787–001.

Applicants: E.ON U.S. LLC.

Description: E. ON U.S. LLC et submits proposed amendments to the Network Integration Transmission Service Agreement etc.

Filed Date: 04/07/2009.

Accession Number: 20090408–0122.

Comment Date: 5 p.m. Eastern Time on Tuesday, April 28, 2009.

Docket Numbers: ER09–800–001.

Applicants: Panda Brandywine LP.

Description: Panda-Brandywine, LP submits an amendment to the 3/5/09 filing.

Filed Date: 04/09/2009.

Accession Number: 20090410–0071.

Comment Date: 5 p.m. Eastern Time on Thursday, April 30, 2009.

Docket Numbers: ER09–867–001.

Applicants: Carolina Power & Light Company.

Description: Carolina Power & Light Co resubmits their 3/20/09 filing of a Network Integration Transmission Service Agreement *et al.*

Filed Date: 04/09/2009.

Accession Number: 20090410–0072.

Comment Date: 5 p.m. Eastern Time on Thursday, April 30, 2009.

Docket Numbers: ER09–961–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc submits Request to Terminate the Market Participant Agreement between the Midwest ISO and Core Energy Services, Inc and Notice Regarding Continuing and Anticipated Default.

Filed Date: 04/07/2009.

Accession Number: 20090408–0151.

Comment Date: 5 p.m. Eastern Time on Tuesday, April 28, 2009.

Docket Numbers: ER09–966–000.

Applicants: Virginia Electric and Power Company.

Description: Dominion Virginia Power submits a revised cover sheet to cancel Original Service Agreement 1316 to FERC Electric Tariff Sixth Revised Volume 1 re a Generator Interconnection and Operation Agreement with Wells Fargo Bank Northwest *et al.*

Filed Date: 04/08/2009.

Accession Number: 20090408–0116.

Comment Date: 5 p.m. Eastern Time on Wednesday, April 29, 2009.

Docket Numbers: ER09–967–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison submits changes to facilities charges re agreements with the City of Azusa *et al.*

Filed Date: 04/08/2009.

Accession Number: 20090408–0117.

Comment Date: 5 p.m. Eastern Time on Wednesday, April 29, 2009.

Docket Numbers: ER09–968–000.

Applicants: Cygnus Energy Futures, LLC.

Description: Cygnus Energy Futures, LLC submits notice canceling its market based rate tariff, FERC Electric Tariff, Original Volume No 1.

Filed Date: 04/08/2009.

Accession Number: 20090409–0056.

Comment Date: 5 p.m. Eastern Time on Wednesday, April 29, 2009.

Docket Numbers: ER09–969–000.

Applicants: Cygnus Energy Partners, LLC.

Description: Cygnus Energy Partners, LLC submits notice canceling its market based rate tariff, FERC Electric Tariff, Original Volume No 1.

Filed Date: 04/08/2009.

Accession Number: 20090409–0057.

Comment Date: 5 p.m. Eastern Time on Wednesday, April 29, 2009.

Docket Numbers: ER09–970–000.

Applicants: Maine Public Service Company.

Description: Maine Public Service Company submits Service Agreements for the Resale, Reassignment, or Transfer of Point to Point Transmission Service among MPS, etc.

Filed Date: 04/08/2009.

Accession Number: 20090409–0058.

Comment Date: 5 p.m. Eastern Time on Wednesday, April 29, 2009.

Docket Numbers: ER09–971–000.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator, Inc submits revisions

to Schedule 1 of its Open Access Transmission Tariff and Rate Schedule 1 of its Market Administration and Control Area Services Tariff.

Filed Date: 04/08/2009.

Accession Number: 20090409–0059.

Comment Date: 5 p.m. Eastern Time on Wednesday, April 29, 2009.

Docket Numbers: ER09–972–000.

Applicants: New York Independent System Operator, Inc.

Description: Notification of tariff implementation errors and request for limited tariff waivers of the New York Independent System Operator, Inc.

Filed Date: 04/08/2009.

Accession Number: 20090409–0060.

Comment Date: 5 p.m. Eastern Time on Wednesday, April 29, 2009.

Docket Numbers: ER09–974–000.

Applicants: Pacific Gas and Electric Company.

Description: Pacific Gas and Electric Co submits a Notice of Termination of the Interconnection Agreement with Nevada Power Company.

Filed Date: 04/09/2009.

Accession Number: 20090410–0069.

Comment Date: 5 p.m. Eastern Time on Thursday, April 30, 2009.

Docket Numbers: ER09–975–000.

Applicants: Energy Endeavors LP.

Description: Energy Endeavors, LP submits a Notice of Non-Material Change in Status.

Filed Date: 04/09/2009.

Accession Number: 20090410–0068.

Comment Date: 5 p.m. Eastern Time on Thursday, April 30, 2009.

Docket Numbers: ER09–976–000.

Applicants: American Electric Power Service Corporation.

Description: Ohio Power Co et al submits their revised Interconnection and Local Delivery Service Agreement.

Filed Date: 04/09/2009.

Accession Number: 20090410–0067.

Comment Date: 5 p.m. Eastern Time on Thursday, April 30, 2009.

Docket Numbers: ER09–977–000.

Applicants: PJM Interconnection LLC.

Description: PJM Interconnection, LLC submits modifications to its Open Access Transmission Tariff.

Filed Date: 04/09/2009.

Accession Number: 20090410–0066.

Comment Date: 5 p.m. Eastern Time on Thursday, April 30, 2009.

Docket Numbers: ER09–978–000.

Applicants: PJM Interconnection LLC.

Description: PJM Interconnection, LLC submits modification to its Open Access Transmission Tariff.

Filed Date: 04/09/2009.

Accession Number: 20090410–0065.

Comment Date: 5 p.m. Eastern Time on Thursday, April 30, 2009.

Docket Numbers: ER09–979–000.

Applicants: Cleco Power LLC.

Description: Cleco Power, LLC submits Notice of Cancellation of Rate Schedule 5, to be effective in 60 days.

Filed Date: 04/09/2009.

Accession Number: 20090410–0073.

Comment Date: 5 p.m. Eastern Time on Thursday, April 30, 2009.

Take notice that the Commission received the following open access transmission tariff filings:

Docket Numbers: OA09–7–001.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc submits compliance filing revising its Open Access Transmission, Energy and Operating Reserve Markets Tariff.

Filed Date: 04/09/2009.

Accession Number: 20090410–0064.

Comment Date: 5 p.m. Eastern Time on Thursday, April 30, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

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Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9–9114 Filed 4–20–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

April 14, 2009.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER00–2398–009; *ER99–3427–007.*

Applicants: Baconton Power LLC.

Description: Update to Application of SOWEGA Power LLC and Baconton Power LLC for Determination of Category 1 Status.

Filed Date: 12/30/2008.

Accession Number: 20081230–5029.

Comment Date: 5 p.m. Eastern Time on Friday, April 24, 2009.

Docket Numbers: ER09–486–002.

Applicants: Ashtabula Wind, LLC.

Description: Refund Report of Ashtabula Wind, LLC.

Filed Date: 04/10/2009.

Accession Number: 20090410–5042.

Comment Date: 5 p.m. Eastern Time on Friday, May 01, 2009.

Docket Numbers: ER09–553–001.

Applicants: Vista Energy Marketing, LP.

Description: Vista Energy Marketing, LP supplements its 1/26/09 application for market based rate authority etc.

Filed Date: 04/10/2009.

Accession Number: 20090413–0142.

Comment Date: 5 p.m. Eastern Time on Friday, May 01, 2009.

Docket Numbers: ER09–799–001.

Applicants: Sempra Energy Trading, LLC.

Description: Sempra Energy Trading, LLC submits an amendment to their FERC Electric Tariff, Original Volume 2.

Filed Date: 04/09/2009.

Accession Number: 20090410–0174.

Comment Date: 5 p.m. Eastern Time on Thursday, April 30, 2009.

Docket Numbers: ER09–980–000.

Applicants: WSPP Inc.

Description: WSPP Inc submits Second Revised Sheet 90A *et al.* to its FERC Rate Schedule 6.

Filed Date: 04/10/2009.

Accession Number: 20090413–0146.

Comment Date: 5 p.m. Eastern Time on Friday, May 01, 2009.

Docket Numbers: ER09–981–000.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator, Inc submits for acceptance Seventh Revised Sheet 3 *et al.* to FERC Electric Tariff, Original Volume 2.

Filed Date: 04/10/2009.

Accession Number: 20090413–0145.

Comment Date: 5 p.m. Eastern Time on Friday, May 01, 2009.

Docket Numbers: ER09–982–000.

Applicants: Black Hills Power, Inc.

Description: Black Hills Power, Inc submits for acceptance Original Volume 1 to FERC Electric Rate Schedule 37 etc. re Transmission Interconnection Agreement with Basin Electric Power Cooperative *et al.*

Filed Date: 04/10/2009.

Accession Number: 20090413–0144.

Comment Date: 5 p.m. Eastern Time on Friday, May 01, 2009.

Docket Numbers: ER09–983–000.

Applicants: Black Hills Power, Inc.

Description: Black Hills Power, Inc submits for acceptance Original Volume 1 to FERC Electric Rate Schedule 37 etc. re Transmission Interconnection Agreement with Basin Electric Power Cooperative *et al.*

Filed Date: 04/10/2009.

Accession Number: 20090413–0144.

Comment Date: 5 p.m. Eastern Time on Friday, May 01, 2009.

Docket Numbers: ER09–984–000.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator, Inc submits for acceptance Second Revised Sheet 12 *et al* to FERC Electric Tariff, Original Volume 1.

Filed Date: 04/10/2009.

Accession Number: 20090413–0143.

Comment Date: 5 p.m. Eastern Time on Friday, May 01, 2009.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES09–26–000.

Applicants: California Independent System Operator Corporation.

Description: Application of California Independent System Operator Corporation under Section 204 of the Federal Power Act for an Order Authorizing the Issuance of Securities.

Filed Date: 04/10/2009.

Accession Number: 20090410–5113.

Comment Date: 5 p.m. Eastern Time on Friday, May 01, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

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Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9–9113 Filed 4–20–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13400–000]

Massachusetts Water Resources Authority; Notice of Conduit Exemption Application Accepted for Filing and Soliciting Comment, Motions To Intervene, and Competing Applications

April 14, 2009.

On March 17, 2009, Massachusetts Water Resources Authority, filed an application pursuant to 16 U.S.C. 791a–825r of the Federal Power Act, for conduit exemption of the Loring Road Hydroelectric Project, to be located in Valve Chamber One at Massachusetts Water Resources Authority's Loring Road facility in Middlesex County, Massachusetts.

The proposed Loring Road Hydroelectric Project consists of: (1) A proposed powerhouse containing one generating unit having an installed capacity of 200 kilowatts, and (2) appurtenant facilities. The Massachusetts Water Resources Authority estimates the project would have an average annual generation of 1,207 megawatt-hours that would be used on-site with any excess being sold to a local utility.

Applicant Contact: Ms. Pamela A. Heidell, Policy and Planning Manager, Massachusetts Water Resources Authority, Charlestown Navy Yard, Building 39, 100 First Avenue, Boston, MA 85326, (617) 788–1102. *Pamela.Heidell@mwra.state.ma.us.*

FERC Contact: Jeremy Jessup, (202) 502–6779. *Jeremy.Jessup@ferc.gov.*

Deadline for filing comments, motions to intervene, protests, recommendations, terms and conditions, prescriptions, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. All filings may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project can be viewed or printed on

the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13400) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–9080 Filed 4–20–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DI09–6–000]

Townsend Historical Society; Notice of Declaration of Intention and Soliciting Comments, Protests, and/or Motions To Intervene

April 14, 2009.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention.

b. *Docket No.:* DI09–6–000.

c. *Date Filed:* April 2, 2009.

d. *Applicant:* Townsend Historical Society.

e. *Name of Project:* Spaulding Grist Mill Hydroelectric Project.

f. *Location:* The Spaulding Grist Mill Hydroelectric Project will be located on the Squannacook River, in Townsend, Middlesex County, Massachusetts.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* Jock Snaith, 264 South Row, Townsend, MA 01469; Telephone: (978) 597–2275; *e-mail: http://www.jocksnaith@yahoo.com.*

i. *FERC Contact:* Any questions on this notice should be addressed to Henry Ecton, (202) 502–8768, or *E-mail address: henry.ecton@ferc.gov.*

j. *Deadline for filing comments, protests, and/or motions:* May 15, 2009.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and/or interventions may be filed electronically via the Internet in lieu of paper. Any questions, please contact the Secretary's Office. *See,* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Please include the docket number (DI09–6–000) on any comments, protests, and/or motions filed.

k. *Description of Project:* The proposed Spaulding Grist Mill Hydroelectric Project includes: (1) A 55-acre-foot reservoir; (2) a 10-foot-high, approximately 20-foot-long, cut stone block dam; (3) a 375-foot-long, 20-foot-wide dry-laid masonry-lined canal; (4) one 25-kW S. Morgan Smith turbine/generator, located in the basement of the Spaulding Grist Mill; and (5) appurtenant facilities. The proposed project has not operated since 1929. It will not occupy any Tribal or Federal lands.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Locations of the Application:* Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link, select ''Docket#'' and follow the instructions. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3372, or TTY, contact (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTESTS'', and/or ''MOTIONS TO INTERVENE'', as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–9076 Filed 4–20–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RC08–5–001]

North American Electric Reliability Corporation; Notice of Filing

October 7, 2008.

Take notice that on October 6, 2008, the North American Electric Reliability Corporation (NERC) submitted for filing in compliance with Commission Order issued July 21, 2008, the NERC Board of Trustees Compliance Committee's decision on remand affirming Reliability First Corporation's decision to retain the United States Department of Energy, Portsmouth/Paducah Project Office's registration as a Load-Serving Entity on the NERC Compliance Registry.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on November 5, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–9088 Filed 4–20–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AC09–57–000]

Trans-Union Interstate Pipeline, L.P.; Notice of Filing

April 14, 2009.

Take notice that on April 3, 2009 Trans-Union Interstate Pipeline, L.P. submitted a request for waiver of the requirement to submit the 2008 FERC Form No. 2–A under Section 260.2 of the Commission regulations.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: May 14, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–9086 Filed 4–20–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR09–24–000]

Atmos Energy Corporation; Notice of Informational Rate Filing

April 14, 2009.

Take notice that on April 9, 2009, Atmos Energy Corporation (Atmos), filed an informational rate filing in Docket No. PR09–24–000. Atmos states that the purpose of the filing is to present information consistent with the Commission's authority under 15 U.S.C. 717i (a) in order to allow the Commission to monitor Atmos' jurisdictional rates under Section 5 of the Natural Gas Act. Atmos further states that it seeks no change in its existing rates and charges or the previously approved terms and conditions upon which it provides service.

Any person desiring to participate in this rate proceeding must file a motion to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on Friday, April 24, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–9074 Filed 4–20–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of FERC Staff Attendance at Southwest Power Pool Board of Directors/Members Committee Meeting, Southwest Power Pool Regional State Committee Meeting and Cost Allocation Working Group Meeting

April 14, 2009.

The Federal Energy Regulatory Commission hereby gives notice that members of its staff may attend the meetings of the Southwest Power Pool (SPP) Regional State Committee, SPP Members Committee, SPP Board of Directors and Cost Allocation Working Group, as noted below. Their attendance is part of the Commission's ongoing outreach efforts.

SPP Regional State Committee Meeting

April 27, 2009 (1 p.m.–5 p.m.), Skirvin Hotel, One Park Avenue, Oklahoma City, OK 73102, 405–272–3040.

SPP Board of Directors—Members Committee Meeting

April 28, 2009 (8:30 a.m.–3 p.m.), Skirvin Hotel, One Park Avenue, Oklahoma City, OK 73102, 405–272–3040.

SPP Cost Allocation Working Group Meeting

April 29, 2009 (8 a.m.–12 p.m.), Skirvin Hotel, One Park Avenue, Oklahoma City, OK 73102, 405–272–3040.

The discussions may address matters at issue in the following proceedings:

Docket No. ER06–451, *Southwest Power Pool, Inc.*
Docket Nos. ER07–319 and EL07–73, *Southwest Power Pool, Inc.*
Docket No. ER07–371, *Southwest Power Pool, Inc.*
Docket No. ER07–1255, *Southwest Power Pool, Inc.*
Docket No. ER08–923, *Southwest Power Pool, Inc.*
Docket No. ER08–1307, *Southwest Power Pool, Inc.*
Docket No. ER08–1308, *Southwest Power Pool, Inc.*
Docket No. ER08–1357, *Southwest Power Pool, Inc.*
Docket No. ER08–1358, *Southwest Power Pool, Inc.*
Docket No. ER08–1419, *Southwest Power Pool, Inc.*
Docket No. ER08–1516, *Southwest Power Pool, Inc.*
Docket No. EL08–80–, *Oklahoma Corporation Commission*
Docket No. ER09–35, *Tallgrass Transmission LLC*
Docket No. ER09–36, *Prairie Wind Transmission LLC*
Docket No. ER09–149, *Southwest Power Pool, Inc.*
Docket No. ER09–262, *Southwest Power Pool, Inc.*
Docket No. ER09–336, *Southwest Power Pool, Inc.*
Docket No. ER09–342, *Southwest Power Pool, Inc.*
Docket No. ER09–443, *Southwest Power Pool, Inc.*
Docket No. ER09–659, *Southwest Power Pool, Inc.*
Docket No. ER09–748, *Southwest Power Pool, Inc.*
Docket No. OA08–5 and EL09–40, *Southwest Power Pool, Inc.*
Docket No. OA08–60, *Southwest Power Pool, Inc.*
Docket No. OA08–61, *Southwest Power Pool, Inc.*
Docket No. OA08–104, *Southwest Power Pool, Inc.*

These meetings are open to the public.

For more information, contact Patrick Clarey, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (317) 249–5937 or *patrick.clarey@ferc.gov.*

Kimberly D. Bose,

Secretary.

[FR Doc. E9–9078 Filed 4–20–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2210–169]

Appalachian Power Company, Virginia; Notice of Public Meeting for the Smith Mountain Pumped Storage Project Draft Environmental Impact Statement

April 14, 2009.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for license for the Smith Mountain Pumped Storage Project (FERC No. 2210), located on the headwaters of the Roanoke River in Bedford, Campbell, Franklin, and Pittsylvania counties in the Commonwealth of Virginia. Commission staff have prepared a draft Environmental Impact Statement (EIS) for the project, which was issued on March 27, 2009.

In addition to, or in lieu of, sending written comments, all interested individuals, organizations, and agencies are invited to attend a public meeting. The time and location of the meeting is as follows:

Date: Thursday, April 30, 2009.

Time: 7 p.m.–10 p.m.

Place: Franklin County High School (Auditorium).

Address: 700 Tanyard Road, Rocky Mount, VA 24151, (540) 483–0221; *Attn:* Mr. William Adkins.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meeting and to discuss their comments on staff's recommendations included in the draft EIS. At this meeting, resource agency personnel and other interested persons will have the opportunity to provide oral and written comments and recommendations regarding the draft EIS. The meeting will be recorded by a court reporter, and all statements (verbal and written) will become part of the Commission's public record for the project. This meeting is posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Written comments should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, 20426. All comments must be filed by May 11, 2009, and should reference Project No. 2210–169. Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and instructions on the Commission's Web site at *http://www.ferc.gov* under the eLibrary link.

Copies of the draft EIS were distributed to the parties on the Commission's mailing list. Copies of the draft EIS will be available at the meeting. The draft EIS contains staff's evaluation of the applicant's proposal and the alternatives for relicensing the Smith Mountain Project. A copy of the draft EIS is also available for review in the Commission's Public Reference Branch, Room 2A, located at 888 First Street, NE., Washington, DC 20426. The draft EIS also may be viewed on the Commission's Web site at *http://www.ferc.gov,* using the eLibrary link. Enter the docket number, excluding the last three digits in the docket number field, to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

For further information, contact Allan Creamer at (202) 502–8365, or by e-mail at *allan.creamer@ferc.gov.*

Kimberly D. Bose,

Secretary.

[FR Doc. E9–9082 Filed 4–20–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of FERC Staff Attendance at Southwest Power Pool Independent Coordinator of Transmission (ICT) Stakeholder Policy Committee Meeting

April 14, 2009.

The Federal Energy Regulatory Commission hereby gives notice that members of its staff may attend the meeting noted below. Their attendance is part of the Commission's ongoing outreach efforts.

ICT Stakeholder Policy Committee Meeting

April 23, 2009 (9 a.m.–3 p.m.), Sheraton North Houston, 15700 John F. Kennedy Blvd., Houston, TX 77032. 281–442–5100.

The discussions may address matters at issue in the following proceedings:

Docket No. OA07–32	Entergy Services, Inc.
Docket No. OA08–59	Entergy Services, Inc.
Docket No. OA08–75	Entergy Services, Inc.
Docket No. OA08–92	Entergy Services, Inc.
Docket No. OA08–149	Entergy Services, Inc.
Docket No. EL00–66	*Louisiana Public Service Commission* v. *Entergy Services, Inc.*
Docket No. EL01–88	*Louisiana Public Service Commission* v. *Entergy Services, Inc.*
Docket No. EL07–52	*Louisiana Public Service Commission* v. *Entergy Services, Inc.*
Docket No. EL05–15	*Arkansas Electric Cooperative, Corp.* v. *Entergy Services, Inc.*
Docket No. EL08–59	*ConocoPhillips* v. *Entergy Services, Inc.*
Docket No. EL08–60	*Union Electric* v. *Entergy Services, Inc.*
Docket No. EL09–35	*Cottonwood Energy LLP* v. *Entergy Services, Inc.*
Docket No. EL09–43	*Arkansas Public Service Commission* v. *Entergy Services, Inc.*
Docket No. ER03–583	Entergy Services, Inc.
Docket No. ER05–1065	Entergy Services, Inc.
Docket No. ER07–682	Entergy Services, Inc.
Docket No. ER07–956	Entergy Services, Inc.
Docket No. ER07–1252	Entergy Services, Inc.
Docket No. ER08–513	Entergy Services, Inc.
Docket No. ER08–515	Entergy Services, Inc.
Docket No. ER08–767	Entergy Services, Inc.
Docket No. ER08–774	Entergy Services, Inc.
Docket No. ER08–844	Entergy Services, Inc.
Docket No. ER08–1056	Entergy Services, Inc.
Docket No. ER08–1057	Entergy Services, Inc.
Docket No. ER09–555	Entergy Services, Inc.
Docket No. ER09–636	Entergy Services, Inc.
Docket No. ER09–683	Entergy Services, Inc.
Docket No. ER09–833	Entergy Services, Inc.
Docket No. ER09–877	Entergy Services, Inc.
Docket No. ER09–878	Entergy Services, Inc.
Docket No. ER09–882	Entergy Services, Inc.
Docket No. ER09–985	Entergy Services, Inc.

These meetings are open to the public.

For more information, contact Patrick Clarey, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (317) 249–5937 or *patrick.clarey@ferc.gov.*

Kimberly D. Bose,

Secretary.

[FR Doc. E9–9077 Filed 4–20–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR09–23–000]

Overland Trail Transmission, LLC; Notice of Petition for Rate Approval

April 14, 2009.

Take notice that on March 31, 2009, Overland Trail Transmission, LLC (OTTCO) filed a petition for rate approval for NGPA section 311 maximum transportation rate for firm and interruptible transportation service, pursuant to section 284.123(b)(2) of the Commission's regulations. OTTCO proposes to change its currently effective maximum system-wide rate for firm and interruptible transportation to $0.5151 per MMBTU, plus a pro rata charge for fuel and lost-and-unaccounted-for gas.

Any person desiring to participate in this rate proceeding must file a motion to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a

copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on Friday, April 24, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–9085 Filed 4–20–09; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2005–0490; FRL–8894–2]

Agency Information Collection Activities; Proposed Collection; Comment Request; Consolidated Emissions Reporting Rule (Renewal); EPA ICR No. 0916.13, OMB Control No. 2060–0088

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on October 31, 2009. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before June 22, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2005–0490, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: beauregard.dennis@epa.gov.*
- *Fax:* (919) 541–0684.
- *Mail:* Consolidated Emissions Reporting (Renewal), EPA–HQ–OAR–2005–0490, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center, 1301 Constitution Avenue, NW., EPA Headquarters Library, Room 3334, EPA West Building, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2005–0490. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Dennis Beauregard, Office of Air Quality Planning and Standards, Air Quality Assessment Division, Mail Code C339–02, Environmental Protection Agency, Research Triangle Park, NC 27711; *telephone number:* (919) 541–5512; *fax number:* (919) 541–0684; *e-mail address: beauregard.dennis@epa.gov.*

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2005–0490, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Air and Radiation Docket is 202–566–1742.

Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document.

What Information Is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of

information technology, *e.g.,* permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under **DATES.**
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What Information Collection Activity or ICR Does This Apply to?

Docket ID No. EPA–HQ–OAR–2005–0490.

Affected entities: Entities potentially affected by this action are state air pollution control agencies.

Title: Consolidated Emissions Reporting (Renewal).

ICR numbers: EPA ICR No. 0916.13, OMB Control No. 2060–0088.

ICR status: This ICR is currently scheduled to expire on October 31, 2009. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9 and are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: EPA has promulgated a Consolidated Emissions Reporting Rule (CERR) (40 CFR part 51, subpart A) to coordinate new emissions inventory reporting requirements with existing requirements of the Clean Air Act (CAA) and 1990 Amendments. Under the CERR, 55 state and territorial air quality agencies, including the District of Columbia (DC), as well as an estimated 49 local air quality agencies, must annually submit emissions data for point sources emitting specified levels of volatile organic compounds (VOCs), oxides of nitrogen (NO_X), carbon monoxide (CO), sulfur dioxide (SO_2), particulate matter less than or equal to 10 micrometers in diameter (PM_{10}), particulate matter less than or equal to 2.5 micrometers in diameter ($PM_{2.5}$), lead (Pb), and ammonia (NH_3).

Every 3 years, states will be required to submit a point source inventory, as well as a statewide stationary nonpoint, nonroad mobile, onroad mobile, and biogenic source inventory for all criteria pollutants and their precursors. The emissions data submitted for the annual and 3-year cycle inventories for stationary point, nonpoint, nonroad mobile, and onroad mobile sources will be used by EPA's Office of Air Quality Planning and Standards to assist in developing ambient air quality emission standards, performing regional modeling, and preparing national trends assessments and special analyses and reports. Any data submitted to EPA under the CERR is in the public domain and cannot be treated as confidential.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 28.5 hours per response. The total number of respondents is assumed to be 2,038. This total number of respondents includes 104 state agencies that are subject to the CERR data reporting requirements and 1,934 sources that are not subject, but are assumed to incur the burden for reporting estimates of $PM_{2.5}$ and NH_3 to state agencies. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 2,038.

Frequency of response: Annual.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 58,172.

Estimated total annual costs: $231,000. This includes an estimated burden cost of $218,400 and an estimated cost of $12,480 for capital investment or maintenance and operational costs.

Are There Changes in the Estimates From the Last Approval?

There are no changes to the reporting requirements under the CERR so the actual state burden will remain unchanged. However, the final ICR may show a minor decrease to the total hours estimated for state reporting that are currently approved by OMB due to the use of updated data on state emissions reporting for annual and three-year emission inventories. In addition, the final ICR may show minor increased costs due to use of updated labor rates since the earlier ICR.

What Is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

Dated: April 9, 2009.

Jenny N. Edmonds,

Acting Director, Office of Air Quality, Planning and Standards.

[FR Doc. E9–9118 Filed 4–20–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2009–0211; FRL–8894–5]

Notice of Receipt of a Clean Air Act Waiver Application To Increase the Allowable Ethanol Content of Gasoline to 15 Percent; Request for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On March 6, 2009, Growth Energy and 54 ethanol manufacturers submitted an application for a waiver of the prohibition of the introduction into commerce of certain fuels and fuel additives set forth in section 211(f) of the Clean Air Act (''the Act''). This application seeks a waiver for ethanol-gasoline blends of up to 15 percent by volume ethanol (''E15''). The statute directs the Administrator of EPA to grant or deny this application within 270 days of receipt by EPA, in this instance December 1, 2009. In this Notice, EPA is soliciting comment on all aspects of the waiver application, including whether a waiver is appropriate for ethanol-gasoline blends over 10 percent and less than 15 percent.

DATES: Written comments must be received on or before May 21, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2009–0211, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-docket@epa.gov.*
- *Fax:* (202) 566–1741.
- *Mail:* Air and Radiation Docket, Docket ID No. EPA–HQ–OAR–2009–0211, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a total of two copies.
- *Hand Delivery:* EPA Docket Center, Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2009–0211. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

How Can I Access the Docket?

EPA has established a public docket for this application under Docket ID No. EPA–HQ–OAR–2009–0211, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the EPA/DC Docket Center Public Reading Room, 1301 Constitution Avenue, NW., Room 3334, Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Air and Radiation Docket is 202–566–1742.

Use *http://www.regulations.gov* to obtain a copy of the waiver request, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document.

FOR FURTHER INFORMATION CONTACT: James W. Caldwell, Office of Transportation and Air Quality, Mailcode: 6406J, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; *telephone number:* (202) 343–9303; *fax number:* (202) 343–2802; *e-mail address: caldwell.jim@epa.gov.*

SUPPLEMENTARY INFORMATION:

Statutory Background

Section 211(f)(1) of the Act makes it unlawful for any manufacturer of any fuel or fuel additive to first introduce into commerce, or to increase the concentration in use of, any fuel or fuel additive for use by any person in motor vehicles manufactured after model year 1974 which is not substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle or engine under section 206 of the Act. EPA last issued an interpretive rule on the phrase ''substantially similar'' at 73 FR 22281 (April 25, 2008).

Section 211(f)(4) of the Act provides that upon application by any fuel or fuel additive manufacturer, the Administrator may waive the prohibitions of section 211(f)(1) if the Administrator determines that the applicant has established that such fuel or fuel additive or a specified concentration thereof, and the emission products of such fuel or fuel additive or a specified concentration thereof, will not cause or contribute to a failure of any emission control device or system (over the useful life of the motor vehicle, motor vehicle engine, nonroad engine or nonroad vehicle in which such device or system is used) to achieve compliance by the vehicle or engine with the emission standards to which it has been certified pursuant to sections 206 and 213(a) of the Act. In other words, the Administrator may grant a waiver for a prohibited fuel or fuel additive if the applicant can demonstrate that the new fuel or fuel additive will not cause or contribute to engines, vehicles or equipment failing to meet their emissions standards over their useful life. The statute requires that the Administrator shall take final action to grant or deny the application, after public notice and comment, within 270 days of receipt of the application.

The current statute reflects changes made under the Energy Independence and Security Act of 2007 which explicitly extended the section 211(f)(4) waiver provision to nonroad engines and nonroad vehicles, extended the period allowed for consideration of the waiver application from 180 days to 270 days and deleted a provision that resulted in a waiver becoming effective by operation of law if the Administrator made no decision within 180 days. The 1978 waiver for 10 percent ethanol in gasoline (''E10'') became effective under the previous provision when no decision was made by the Administrator

regarding the waiver application and the waiver became effective by operation of law after passage of 180 days.

Context of Growth Energy's Waiver Application

On March 6, 2009, Growth Energy and 54 ethanol manufacturers submitted a waiver application to the Administrator, pursuant to section 211(f)(4) of the Act, for ethanol-gasoline blends containing up to 15 percent ethanol by volume (''E15'').

Growth Energy maintains that under the renewable fuel program requirements of the Energy Independence and Security Act of 2007, which is now primarily satisfied by the use of ethanol in motor vehicle gasoline, there exists a ''blend barrier'' or ''blendwall'' by which motor vehicle gasoline in the U.S. essentially will become saturated with ethanol at the 10 volume percent level very soon. Growth Energy maintains that a necessary first step is to increase the allowable amount of ethanol in motor vehicle gasoline up to 15 percent (E15) in order to delay the blendwall. They also claim other ways of delaying the blendwall could include adding more stations offering E85 blends and bringing in the renewable fuel mandate specified in the Energy Independence and Security Act of 2007. For its part, Growth Energy claims that the ''blendwall'' will make those renewable fuel mandates unreachable and that there are substantial environmental benefits associated with higher ethanol blends.

Growth Energy states in its waiver application that its supporting studies and extensive experience with ethanol support a conclusion that E15 will not cause or contribute to the failure of an emission control system such that the engine or vehicles fails to achieve compliance with its emission standards. In addition to the information that Growth Energy submitted, EPA is aware that several interested parties are investigating the impact that mid-level blends (*e.g.,* E15 or E20) may have on vehicles and equipment. These testing programs are evaluating emissions impacts as well as other types of impacts (*i.e.*, catalyst, engine, and fuel system durability, and onboard diagnostics) on vehicles and equipment. The Department of Energy, working in conjunction with the Coordinating Research Council and other interested parties, is leading a substantial testing effort. Results from this program to date are referenced in Growth Energy's waiver request, and we expect additional data will be added to the docket as it becomes available.

One potential outcome at the end of our process, after reviewing the entire body of scientific and technical information available to us, may be an indication that a fuel up to E15 could meet the criteria for a waiver for some vehicles and engines but not for others. Some vehicles and engines may be more susceptible to emission increases or durability problems that cause or contribute to these vehicles or engines failing to meet their emissions standards. Assuming the criteria are met for a certain subset of vehicles, one interpretation of section 211(f)(4) is that the waiver could be approved in part for only that subset of vehicles or engines for which testing supports its use and for which adequate conditions or other measures could be implemented to ensure its proper use.

Another potential outcome is a conclusion that ethanol blends of greater than 10 percent, but less than 15 percent, warrant a waiver. To take such action, the Agency would need similar evidence, such as emissions durability testing, as what would be needed to address a waiver for a 15 percent blend.

Any approval, either fully or partially, is likely to elicit a market response to add E15 blends to E10 and E0 blends in the marketplace, rather than replace them. Thus consumers would merely have an additional choice of fuel.

Experience in past fuel programs has shown that even with consumer education and fuel implementation efforts, there sometimes continues to be public concern for new fuel requirements. Several examples include the phasedown of the amount of lead allowed in gasoline in the 1980s and the introduction of reformulated gasoline (RFG) in 1995. Some segments of the public were convinced that the new fuels caused vehicle problems or decreases in fuel economy. Although substantial test data proved otherwise, these concerns lingered in some cases for several years. As a direct result of these experiences, EPA wants to be assured that prior to granting a waiver, sufficient testing has been conducted to demonstrate the compatibility of a waiver fuel with engine, fuel and emission control system components.

EPA has previously granted waivers with certain restrictions or conditions, including requirements that precautions be taken to prevent using the waiver fuel as a base fuel for adding oxygenates, that certain corrosion inhibitors be utilized when producing the waiver fuel, and that waiver fuels meet voluntary consensus-based standards such as those developed by the American Society for Testing and Materials (ASTM). In a partial waiver for fueling certain types of vehicles or engines, the condition placed on the fuel manufacturer would be that the fuel is only used in certain vehicles or engines (*i.e.,* E15 is only used in the subset of vehicles or engines identified in the partial or conditional waiver). EPA recognizes that there may be legal and practical limitations on what a fuel manufacturer may be required or able to do to ensure compliance with the conditions of the waiver, including preventing misfueling. EPA has not previously imposed this type of ''downstream'' condition on the fuel manufacturer as a condition for obtaining a section 211(f)(4) waiver. EPA does, however, have experience with compliance problems occurring when two types of gasoline have been available at service stations. Beginning in the mid-1970s with the introduction of unleaded gasoline and continuing into the 1980s as leaded gasoline was phased out, there was significant intentional misfueling by consumers. At the time most service stations had pumps dispensing both leaded and unleaded gasoline and a price differential as small as a few cents per gallon was enough to cause some consumers to misfuel.

Request for Comments

EPA invites public comments and data on all aspects of the waiver application that will assist the Administrator in determining whether the statutory basis for granting the waiver request for ethanol-gasoline blends containing up to E15 has been met. EPA specifically requests comment and data that will enable EPA to:

(a) evaluate whether an appropriate level of scientific and technical information exists in order for the Administrator to determine whether the use of E15 will not cause or contribute to a failure of any emission control device or system over the useful life of any motor vehicle or motor vehicle engine (certified pursuant to section 206 of the Act) to achieve compliance with applicable emission standards;

(b) evaluate whether an appropriate level of scientific and technical information exists in order for the Administrator to determine whether the use of E15 will not cause or contribute to a failure of any emission control device or system over the useful life of any nonroad vehicle or nonroad engine (certified pursuant to sections 206 and 213(a) of the Act) to achieve compliance with applicable emission standards; and,

(c) evaluate whether an appropriate level of scientific and technical information exists in order for the

Administrator to grant a waiver for an ethanol-gasoline blend greater than 10 percent and less than or equal to 15 percent by volume.

EPA also requests comment on:

(d) all legal and technical aspects regarding the possibility that a waiver might be granted, in a conditional or partial manner, such that the use of up to E15 would be restricted to a subset of gasoline vehicles or engines that would be covered by the waiver, while other vehicles or engines would continue using fuels with blends no greater than E10. EPA seeks comment on what measures would be needed to ensure that the fuel covered by the waiver (*i.e.* a partial or conditional waiver) is only used in that subset of vehicles or engines. EPA acknowledges that the issue of misfueling would be challenging in a situation where a conditional waiver is granted. To the extent a partial or conditional waiver may be appropriate, please provide comments on the legal and technical need for restrictions of this nature. Comments are also requested on how the Agency might define a partial or conditional waiver. For example, assuming there is sufficient technical basis, should the subset of vehicles or engines that is allowed to use the waived fuel be defined by model year of production, engine size, application (*e.g.,* highway vehicle vs. nonroad engine), or some other defining characteristic.

(e) Any education efforts that would be needed to inform the public about the new fuel that would be available if a waiver is granted. To address the possibility of a grant of a conditional or partial waiver, the Agency requests specific comments on public education measures that would be needed if the waiver allowed the fuel to be used only in a subset of existing vehicles or engines.

Commenters should include data or specific examples in support of their comments in order to aid the Administrator in determining whether to grant or deny the waiver request. In order for any testing programs evaluating emissions impacts, as well as other types of impacts (*i.e.*, catalyst, engine, fuel system durability, or onboard diagnostics), to be useful in EPA's evaluation of Growth Energy's waiver application, any mid-level ethanol blend testing or other analyses should consider such impacts across a range of engines and equipment (including the fuel systems) that are currently in service and that could be exposed to mid-level ethanol blends. Such testing and analyses should also assess the long-term impacts of such blends. EPA specifically solicits the data and results from such testing and analyses.

Although it is not a specific criterion by which to evaluate a waiver request under section 211(f), any approved waiver could require program changes to accommodate this new fuel. EPA seeks comment on the effect of a potential waiver for ethanol blends above 10 percent and up to 15 percent on existing fuel programs (*e.g.,* gasoline detergent certification, protection of underground storage tanks, etc.) and on the gasoline production, distribution and marketing infrastructure. For example, would EPA need to modify its RFG and anti-dumping regulations to account for a higher blend? EPA also seeks comment on the dynamics of the blendwall concern raised by Growth Energy, the extent to which the use of an E15 blend would in practice help address this concern, and what additional steps would have to be taken to bring E15 to market should a waiver be granted.

Dated: April 15, 2009.

Elizabeth Craig,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. E9–9115 Filed 4–20–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8894–4]

Science Advisory Board Staff Office; Notification of a Public Teleconference of the Clean Air Scientific Advisory Committee (CASAC); Particulate Matter Review Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public teleconference of the Clean Air Scientific Advisory Committee Particulate Matter Review Panel (the CASAC PM Review Panel) to review and approve its draft letters on three EPA documents: *Integrated Science Assessment for Particulate Matter—First External Review Draft, Dec 2008; PM NAAQS: Scope and Methods Plan for Health 88Risk and Exposure Assessment (February 2009); and PM NAAQS: Scope and Methods Plan for Urban Visibility Impact Assessment (February 2009)* developed for the PM National Ambient Air Quality Standards (NAAQS) review.

DATES: The public teleconference will be held on Thursday May 7, 2009 from 1 p.m. to 2 p.m. (Eastern Time).

ADDRESSES: The teleconference will be conducted by telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wants further information concerning the CASAC public teleconference may contact Dr. Holly Stallworth, Designated Federal Officer (DFO), EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via telephone/voice mail (202) 343–9867; fax (202) 233–0643; or e-mail at *stallworth.holly@epa.gov.* General information concerning the CASAC can be found on the EPA Web site at *http://www.epa.gov/casac.*

SUPPLEMENTARY INFORMATION:

Background: The Clean Air Scientific Advisory Committee (CASAC) was established under section 109(d)(2) of the Clean Air Act (CAA or Act) (42 U.S.C. 7409) as an independent scientific advisory committee. CASAC provides advice, information and recommendations on the scientific and technical aspects of air quality criteria and national ambient air quality standards (NAAQS) under sections 108 and 109 of the Act. The CASAC is a Federal advisory committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The CASAC will comply with the provisions of FACA and all appropriate SAB Staff Office procedures.

Section 109(d)(1) of the CAA requires that the Agency periodically review and revise, as appropriate, the air quality criteria and the NAAQS for the six ''criteria'' air pollutants, including particulate matter (PM). EPA conducts scientific assessments to determine both primary (health-based) and secondary (welfare-based) standards for each of these pollutants.

The CASAC PM Review Panel will hold a public teleconference on May 7, 2009 to review and approve draft letters reviewing three EPA draft documents supporting EPA's review of the PM National Ambient Air Quality Standard: (1) *Integrated Science Assessment for Particulate Matter—First External Review Draft, Dec 2008;* (2) *PM NAAQS: Scope and Methods Plan for Health Risk and Exposure Assessment (February 2009);* and (3) *PM NAAQS: Scope and Methods Plan for Urban Visibility Impact Assessment (February 2009).*

The CASAC PM Panel previously held a public meeting on April 1–2, 2009 (announced in 74 FR 7688–7689) to review these documents. The purpose of the May 7, 2009 teleconference is to

review and approve the CASAC PM Panel's draft letters on the above-referenced documents.

Additional information about the CASAC PM panel's review and advice in support of EPA's NAAQS review for PM can be found on the CASAC Web site at *http://yosemite.epa.gov/sab/sabproduct.nsf/WebProjectsbyTopicCASAC!OpenView.*

Technical Contacts: Any questions concerning EPA's *Integrated Science Assessment* for *Particulate Matter* should be directed to Dr. Lindsay Stanek at *stanek.lindsay@epa.gov* or 919–541–7792. Any questions concerning EPA's *Particulate Matter National Ambient Air Quality Standard: Scope and Methods Plan for Health Risk and Exposure Assessment* should be directed to Ms. Beth Hassett-Sipple at *hassett-sipple.beth@epa.gov* or 919–541–4605. Any questions concerning *Particulate Matter National Ambient Air Quality Standards: Scope and Methods Plan for Urban Visibility Impact Assessment* (February 2009) should be directed to Ms. Vicki Sandiford at *sandiford.vicki@epa.gov* or 919–541–2629.

Availability of Meeting Materials: The CASAC panel draft reports, teleconference agenda, and other materials for the teleconference will be placed on the CASAC Web site prior to the meeting at *http://www.epa.gov/casac.* Select the calendar link on the left to access agenda and meeting materials for May 7, 2009. The *Integrated Science Assessment for Particulate Matter: First External Review Draft (December 2008)* is available at *http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=201805.* Both of the PM NAAQS Scope and Methods Plans (February 2009) are available at *http://www.epa.gov/ttn/naaqs/standards/pm/s_pm_2007_pd.html.*

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for consideration on the topics included in this advisory activity. *Oral Statements:* To be placed on the public speaker list for the May 7, 2009 teleconference meeting, interested parties should notify Dr. Holly Stallworth, DFO, by e-mail no later than May 1, 2009. Individuals making oral statements will be limited to three minutes per speaker. *Written Statements:* Written statements for the May 7, 2009 teleconference should be received in the SAB Staff Office by May 1, 2009 so that the information may be made available to the CASAC Panel for its consideration prior to this meeting. Written statements should be supplied to the DFO in the following formats: one hard copy with original signature and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, MS Word, WordPerfect, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format). Submitters are asked to provide versions of each document submitted with *and* without signatures, because the SAB Staff Office does not publish documents with signatures on its Web sites.

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Stallworth at the phone number or e-mail address noted above, preferably at least ten days prior to the teleconference, to give EPA as much time as possible to process your request.

Dated: April 15, 2009.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. E9–9122 Filed 4–20–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2008–0926; FRL–8894–3]

Board of Scientific Counselors, Science and Technology for Sustainability Mid-Cycle Subcommittee Meetings—Winter 2009

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, the Environmental Protection Agency, Office of Research and Development (ORD), gives notice of a meeting of the Board of Scientific Counselors (BOSC) Science and Technology for Sustainability Subcommittee.

DATES: The meeting (teleconference call) will be held on Wednesday, May 6, 2009, from 12 p.m. to 2 p.m. Eastern Standard Time (EST). The meeting may adjourn early if all business is finished. Requests for the draft agenda or for making oral presentations at the meetings will be accepted up to one business day before the meeting.

ADDRESSES: Participation in the conference call will be by teleconference only—meeting rooms will not be used. Members of the public may obtain the call-in number and access code for the call from Greg Susanke, whose contact information is listed under the **FOR FURTHER INFORMATION CONTACT** section of this notice. Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2008–0926, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail:* Send comments by electronic mail (e-mail) to: *ORD.Docket@epa.gov,* Attention Docket ID No. EPA–HQ–ORD–2008–0926.
- *Fax:* Fax comments to: (202) 566–0224, Attention Docket ID No. EPA–HQ–ORD–2008–0926.
- *Mail:* Send comments by mail to: Board of Scientific Counselors, Science and Technology for Sustainability Mid-Cycle Subcommittee Meetings—Winter 2009 Docket, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–ORD–2008–0926.
- *Hand Delivery or Courier:* Deliver comments to: EPA Docket Center (EPA/DC), Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID No. EPA–HQ–ORD–2008–0926. **Note:** this is not a mailing address. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2008–0926. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Board of Scientific Counselors, Science and Technology for Sustainability Mid-Cycle Subcommittee Meetings—Winter 2009 Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the ORD Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Officer via mail at: Greg Susanke, Mail Drop 8104–R, Office of Science Policy, Office of Research and Development, Environmental Protection Agency, 1300 Pennsylvania Ave., NW., Washington, DC 20460; via phone/voice mail at: (202) 564–9945; via fax at: (202) 565–2911; or via e-mail at: *susanke.greg@epa.gov.*

SUPPLEMENTARY INFORMATION:

General Information

The meeting is open to the public. Any member of the public interested in receiving a draft BOSC agenda or making a presentation at the meeting may contact Greg Susanke, the Designated Federal Officer, via any of the contact methods listed in the **FOR FURTHER INFORMATION CONTACT** section above. In general, each individual making an oral presentation will be limited to a total of three minutes.

EPA ORD is conducting an independent expert review through the BOSC, to evaluate the progress made by the Science and Technology for Sustainability Research Program towards addressing the recommendations that resulted from its initial program review in April 2007; and to evaluate and obtain advice on key future directions for the research program which have been developed and other potential areas that could be considered. Proposed agenda items for the meeting includes, but is not limited to review and discussion of the draft subcommittee report which includes overall comments and recommendations to ORD's Science and Technology for Sustainability Research Program, and responses to the subcommittee charge questions.

Information on Services for Individuals with Disabilities: For information on access or services for individuals with disabilities, please contact Greg Susanke at (202) 564–9945 or *susanke.greg@epa.gov.* To request accommodation of a disability, please contact Greg Susanke, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: April 14, 2009.

Mary Ellen Radzikowski,

Acting Director, Office of Science Policy.

[FR Doc. E9–9125 Filed 4–20–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8894–6]

Clean Air Act Advisory Committee (CAAAC): Notice of Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting.

SUMMARY: The Environmental Protection Agency (EPA) established the Clean Air Act Advisory Committee (CAAAC) on November 19, 1990, to provide independent advice and counsel to EPA on policy issues associated with implementation of the Clean Air Act of 1990. The Committee advises on economic, environmental, technical scientific, and enforcement policy issues.

DATES AND ADDRESSES: Open meeting notice; Pursuant to 5 U.S.C. App. 2 section 10(a)(2), notice is hereby given that the Clean Air Act Advisory Committee will hold its next open meeting on Thursday May 14, 2009 from 8 a.m. to 4 p.m. at the Almas Conference Center located at 1315 K Street, NW., Washington, DC. Seating will be available on a first come, first served basis. The Permits, New Source Review and Toxics subcommittee will meet on May 13, 2009 from 8:30 a.m. to 12 p.m. The Economic Incentives and Regulatory Innovations subcommittee Work Group will meet on May 13, 2009 from approximately 1 p.m. to 3:30 p.m. These meetings will be held at the Hamilton Crown Plaza at 1001 14th Street, NW., Washington, DC, next to the Almas Center. The Clean Air Excellence Awards Program will be presented at the Almas Conference Center starting at 4:30 p.m. on May 13, 2009. The Mobile Source Technical Review subcommittee meeting will be held on May 13, 2009 at the Loews Madison Hotel, 1177 15th Street, NW., Washington, DC 20005; a separate **Federal Register** Notice has been created for this meeting. The agenda for the CAAAC full committee meeting on May 14, 2009 will be posted on the Clean Air Act Advisory Committee Web site at *http://www.epa.gov/oar/caaac/.*

Inspection of Committee Documents: The Committee agenda and any documents prepared for the meeting will be publicly available at the meeting. Thereafter, these documents, together with CAAAC meeting minutes, will be available by contacting the Office of Air and Radiation Docket and requesting information under docket OAR–2004–0075. The Docket office can be reached by e-mail at: *a-and-r-Docket@epa.gov* or FAX: 202–566–9744.

FOR FURTHER INFORMATION CONTACT: Concerning the CAAAC, please contact Pat Childers, Office of Air and Radiation, U.S. EPA (202) 564–1082, FAX (202) 564–1352 or by mail at U.S. EPA, Office of Air and Radiation (Mail code 6102 A), 1200 Pennsylvania Avenue, NW., Washington, DC 20004. For information on the Subcommittees, please contact the following individuals: (1) Permits/NSR/Toxics Integration—Liz Naess, (919) 541–1892; and (2) Economic Incentives and Regulatory Innovations—Carey Fitzmaurice, (202) 564–1667 (3) Mobile Source Technical Review—John Guy, (202) 343–9276 Additional Information on these meetings, CAAAC, and its Subcommittees can be found on the CAAAC Web site: *http://www.epa.gov/oar/caaac/.*

For information on access or services for individuals with disabilities, please contact Mr. Pat Childers at (202) 564–1082 or *childers.pat@epa.gov.* To request accommodation of a disability, please contact Mr. Childers, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: April 14, 2009.

Pat Childers,

Designated Federal Official, Clean Air Act Advisory Committee, Office of Air and Radiation.

[FR Doc. E9–9120 Filed 4–20–09; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Approved by the Office of Management and Budget

April 14, 2009.

SUMMARY: The Federal Communications Commission has received Office of Management and Budget (OMB) approval for the following public information collection(s) pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). An agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number, and no person is required to respond to a collection of information unless it displays a currently valid OMB control number. Comments concerning the accuracy of the burden estimate(s) and any suggestions for reducing the burden should be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0027.

OMB Approval Date: April 6, 2009.

Expiration Date: April 30, 2012.

Title: Application for Construction Permit for a Commercial Broadcast Station.

Form No.: FCC Form 301.

Estimated Annual Burden: 4,453 respondents; 7,889 responses; total annual burden: 19,291 hours.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this information collection.

Needs and Uses: On December 18, 2007, the Commission adopted a Report and Order and Third Further Notice of Proposed Rulemaking (the ''Order'') in MB Docket Nos. 07–294; 06–121; 02–277; 04–228, MM Docket Nos. 01–235; 01- 317; 00–244; FCC 07–217. The Order adopts rule changes designed to expand opportunities for participation in the broadcasting industry by new entrants and small businesses, including minority- and women-owned businesses. Consistent with actions taken by the Commission in the Order, the following changes are made to Form 301: The instructions to Form 301 have been revised to incorporate a definition of ''eligible entity,'' which will apply to the Commission's existing Equity Debt Plus (''EDP'') standard, one of the standards used to determine whether interests are attributable. Section II of the form includes a new question asking applicants to indicate whether the applicant is claiming ''eligible entity'' status. The instructions have been revised to assist applicants with completing the new question.

OMB Control Number: 3060–0031.

OMB Approval Date: April 6, 2009.

Expiration Date: April 30, 2012.

Title: Application for Consent to Assignment of Broadcast Station Construction Permit or License, FCC Form 314; Application for Consent to Transfer Control of Entity Holding Broadcast Station Construction Permit or License, FCC Form 315; Section 73.3580, Local Public Notice of Filing of Broadcast Applications.

Form No.: FCC Forms 314 and 315.

Estimated Annual Burden: 4,820 respondents; 12,520 responses, total annual burden: 17,933 hours.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this information collection.

Needs and Uses: On December 18, 2007, the Commission adopted a Report and Order and Third Further Notice of Proposed Rulemaking (the ''Order'') in MB Docket Nos. 07–294; 06–121; 02–277; 04–228, MM Docket Nos. 01–235; 01- 317; 00–244; FCC 07–217. The Order adopts rule changes designed to expand opportunities for participation in the broadcasting industry by new entrants and small businesses, including minority- and women-owned businesses. Consistent with actions taken by the Commission in the Order, the following changes are made to Forms 314 and 315: The instructions to Form 314 have been revised to incorporate a definition of ''eligible entity,'' which will apply to the Commission's existing Equity Debt Plus (''EDP'') standard, one of the standards used to determine whether interests are attributable. Section II of the form includes a new certification concerning compliance with the Commission's anti-discrimination rules. Section III of the form includes a new question asking applicants to indicate whether the applicant is claiming ''eligible entity'' status. Section III also contains a new question asking applicants to indicate whether the proposed transaction involves the assignment of a radio station license that is part of a non-compliant, grandfathered cluster of radio licenses, and whether any licenses will be divested within 12 months of consummation of the transaction and assigned to an eligible entity. The instructions for Sections II and III have been revised to assist applicants with completing the new questions.

The instructions to Form 315 have been revised to incorporate a definition of ''eligible entity,'' which will apply to the Commission's existing Equity Debt Plus (''EDP'') standard, one of the standards used to determine whether interests are attributable. Section II of the form includes a new certification concerning compliance with the Commission's anti-discrimination rules. Section IV of the form includes a new question asking applicants to indicate whether the applicant is claiming ''eligible entity'' status. Section IV also contains a new question asking applicants to indicate whether the proposed transaction involves the assignment of a radio station license that is part of a non-compliant, grandfathered cluster of radio licenses, and whether any licenses will be divested within 12 months of consummation of the transaction and assigned to an eligible entity. The instructions for Sections II and IV have been revised to assist applicants with completing the new questions.

OMB Control Number: 3060–0075.

OMB Approval Date: April 6, 2009.

Expiration Date: April 30, 2012.

Title: Application for Transfer of Control of a Corporate Licensee or Permittee, or Assignment of License or Permit for an FM or TV Translator Station, or a Low Power Television Station—FCC Form 345.

Form No.: FCC Form 345.

Estimated Annual Burden: 1,000 respondents; 2,000 responses; total annual burden: 1,792 hours.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in 154(i), 303 and 310 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this information collection.

Needs and Uses: On December 18, 2007, the Commission adopted a Report and Order and Third Further Notice of Proposed Rulemaking (the ''Order'') in MB Docket Nos. 07–294; 06–121; 02–277; 04–228, MM Docket Nos. 01–235; 01- 317; 00–244; FCC 07–217. Consistent with actions taken by the Commission in the Order, the following changes are made to Form 345: Section

II of Form 345 includes a new certification concerning compliance with the Commission's anti-discrimination rules and the instructions for Section II have been revised to assist applicants with completing the new question. The instructions in Section III have also been revised to incorporate a definition of ''eligible entity,'' which will apply to the Commission's existing Equity Debt Plus (''EDP'') standard, one of the standards used to determine whether interests are attributable.

Marlene H. Dortch,

Secretary, Federal Communications Commission.

[FR Doc. E9–8851 Filed 4–20–09; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request; 3064–0097

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FDIC hereby gives notice that it is submitting to OMB a request for OMB review and approval of the renewal of the information collection system described below.

DATES: Comments must be submitted on or before May 21, 2009.

ADDRESSES: Interested parties are invited to submit written comments on the collection of information entitled: Interagency Notice of Change in Director or Executive Officer (3064–0097).

All comments should refer to the name and number of the collection. Comments may be submitted by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html.*
- *E-mail: comments@fdic.gov.* Include the name and number of the collection in the subject line of the message.
- *Mail:* Gary A. Kuiper (202.898.3877), Counsel, Federal Deposit Insurance Corporation, F–1072, 550 17th Street, NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

A copy of the comments may also be submitted to the OMB desk officer for the FDIC, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Gary A. Kuiper, at the address identified above.

SUPPLEMENTARY INFORMATION:

Proposal To Renew the Following Currently Approved Collection of Information:

Title: Interagency Notice of Change in Director or Executive Officer.

OMB Number: 3064–0097.

Frequency of Response: On occasion.

Affected Public: Business or other financial institutions.

Estimated Number of Respondents: 400.

Estimated Time per Response: 2 hours.

Total Annual Burden: 800 hours.

General Description of Collection: Certain insured State nonmember banks must notify the FDIC of the addition of a director or the employment of a senior executive officer.

Request for Comment

Comments are invited on: (a) Whether these collections of information are necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimate of the burden of the information collections, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collections on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 16th day of April 2009.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E9–9087 Filed 4–20–09; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 5, 2009.

A. Federal Reserve Bank of Cleveland (Nadine Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. Timothy J. Fisher, Waterville, Ohio; Elizabeth M. Fisher, Martin, Ohio; Audrey W. Yackee, Martin, Ohio; Dorothy O. Johnson, Williston, Ohio; Linda F. Bertok, Martin, Ohio; and Russell E. Yackee, Martin, Ohio; to retain voting shares of GenBanc, Inc., and thereby indirectly retain voting shares of The Genoa Banking Company, both of Genoa, Ohio.

Board of Governors of the Federal Reserve System, April 15, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–9027 Filed 4–20–09; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the

Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 15, 2009.

A. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. A.N.B. Holding Company, Ltd., Terrell, Texas, to aquire up to an additional 35 percent of the voting shares of The ANB Corporation, and thereby indirectly acquire additional voting shares of American National Bank, both of Terrell, Texas.

Board of Governors of the Federal Reserve System, April 15, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–9026 Filed 4–20–09; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 12:00 p.m., Monday, April 27, 2009.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

FOR FURTHER INFORMATION CONTACT: Michelle Smith, Director, or Dave Skidmore, Assistant to the Board, Office of Board Members at 202–452–2955.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Board of Governors of the Federal Reserve System, April 17, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–9237 Filed 4–17–09; 4:15 pm]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 5, 2009.

A. Federal Reserve Bank of San Francisco (Kenneth Binning, Vice President, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. Manhattan Bancorp, El Segundo, California; Carpenter Fund Manager GP, LLC; Carpenter Fund Management, LLC; Carpenter Community Bancfund, L.P.; Carpenter Community Bancfund–A, L.P.; Carpenter Community Bancfund–CA, L.P.; CCFW, Inc. (doing business as Carpenter & Company); and SCJ, Inc., all of Irvine, California, to form a new wholly–owned subsidiary, MB Financial Services, Inc., which will enter into a *de novo* joint venture with Bodi Advisors, Inc., both of El Segundo, California, by acquiring approximately 70 percent of the voting shares of Bodi Capital LLC, Segundo, California, and thereby engage in riskless principal transactions, pursuant to section 225.28(b)(7)(ii), and provide investment advice, pursuant to section 225.28(b)(6), both of Regulation Y.

Board of Governors of the Federal Reserve System, April 15, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board

[FR Doc. E9–9028 Filed 4–20–09; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of Availability of Federal Matching Shares for Medicaid and Foster Care and Adoption Assistance

AGENCY: Office of the Secretary, Department of Heath and Human Services.

ACTION: Notice.

SUMMARY: The Federal Medical Assistance Percentages (FMAPs) for the first two quarters of Fiscal Year 2009 have been recalculated pursuant to the American Recovery and Reinvestment Act (ARRA). These percentages will be effective from October 1, 2008 through March 31, 2009. This notice announces the calculated FMAPs that the U.S. Department of Health and Human Services (HHS) will use in determining the amount of Federal matching for State medical assistance under Title XIX and Title IV–E. The table gives figures for each of the 50 States and the District of Columbia. Adjusted figures are not shown for Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands since territories have a choice between two methodologies to determine their recalculated figures. Programs under title XIX of the Act exist in each jurisdiction. The percentages in this notice only apply to State expenditures for most medical services

and medical insurance services. The statute provides separately for Federal matching of administrative costs.

Title V of the ARRA provides for temporary increases in the FMAPs for fiscal relief to States and to protect and maintain State Medicaid programs in a period of economic downturn. The recession adjustment period is defined as the period beginning on October 1, 2008 and ending on December 31, 2010.

Section 5001 of the ARRA specifies that the FMAP shall be temporarily increased for the following: (1) A maintenance of FMAP for fiscal year 2009, fiscal year 2010, and first quarter of fiscal year 2011, determined by substituting the greater of such percentage for the State compared to the FMAP calculated for the prior fiscal year; (2) the application of an increase in each state's FMAP of 6.2 percentage points; and (3) an additional percent increase based on the state's increase in unemployment. Each state's FMAP will be recalculated each fiscal quarter beginning October 2008.

Payments eligible for FMAP under title XIX, except disproportionate share hospital and enhanced FMAP payments, shall receive the 6.2 percentage point increase and any unemployment adjustment. Payments under part E of title IV shall only receive the 6.2 percentage point increase.

The unemployment increase percentage for a calendar quarter is equal to the number of percentage points (if any) by which the average monthly unemployment rate for the State in the most recent previous 3-consecutive-month period for which data are available exceeds the lowest average monthly unemployment rate for the State for any 3-consecutive-month period beginning on or after January 1, 2006. A State qualifies for additional relief based on an increase in unemployment if that State's unemployment increase percentage is at least 1.5 percentage points.

In addition to the general 6.2 percentage point increase in FMAP, the FMAP for each qualifying State is increased by the number of percentage points equal to the product of the State percentage calculated from half the 6.2 percentage point increase in FMAP and the applicable percent determined from the State unemployment increase percentage for the quarter. The applicable percent is (1) 5.5 percent if the State unemployment increase percentage is at least 1.5 percentage points but less than 2.5 percentage points, (2) 8.5 percent if the State unemployment increase percentage is at least 2.5 percentage points but less than 3.5 percentage points, and (3) 11.5 percent if the State unemployment increase percentage is at least 3.5 percentage points.

If the applicable percent applied to a State is less than the applicable percent applied for the preceding quarter, then the higher applicable percent shall continue in effect for any calendar quarter beginning on January 1, 2009 and ending before July 1, 2010.

Territories (Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and America Samoa) can make a one-time election between (1) a 30 percent increase in their cap on Medicaid payments (as determined under subsections (f) and (g) of section 1108 of the Social Security Act), or (2) apply the increase of 6.2 percentage points in the FMAP plus a 15 percent increase in cap on Medicaid payments.

In no case shall an increase in FMAP under this section result in an FMAP that exceeds 100 percent.

DATES: *Effective Dates:* The percentages listed will be effective for each of the 2 quarter-year periods in the period beginning October 1, 2008 and ending March 15, 2009.

FOR FURTHER INFORMATION CONTACT: Thomas Musco or Rose Chu, Office of Health Policy, Office of the Assistant Secretary for Planning and Evaluation, Room 447D—Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, (202) 690–6870.

(Catalog of Federal Domestic Assistance Program Nos. 93.558: TANF Contingency Funds; 93.563: Child Support Enforcement; 93–596: Child Care Mandatory and Matching Funds of the Child Care and Development Fund; 93.658: 93.659: Adoption Assistance; 93.769: Ticket-to-Work and Work Incentives Improvement Act (TWWIIA) Demonstrations to Maintain Independence and Employment)

Dated: March 26, 2009.

Charles E. Johnson,

Acting Secretary.

ARRA ADJUSTMENTS TO FMAP

State	FY08 original FMAP	FY09 original FMAP	Hold harmless FY 09	Hold harmless FY09 FMAP with 6.2% pt increase	3-Month average unemployment rate ending Dec 2008	Minimum unemployment	Unemployment difference	Unemployment tier	Unemployment adjustment	1st Quarter FY09 FMAP adjust (incl HH–6.2–unemployment)	2nd Quarter FY09 FMAP adjust (incl HH–6.2–unemployment)
Alabama	67.62	67.98	67.98	74.18	6.1	3.4	2.7	8.5	2.46	76.64	76.64
Alaska	52.48	50.53	52.48	58.68	7.3	6.0	1.3	0	0.00	58.68	58.68
Arizona	66.20	65.77	66.20	72.40	6.5	3.7	2.8	8.5	2.61	75.01	75.01
Arkansas	72.94	72.81	72.94	79.14	5.7	4.7	1.0	0	0.00	79.14	79.14
California	50.00	50.00	50.00	56.20	8.7	4.8	3.9	11.5	5.39	61.59	61.59
Colorado	50.00	50.00	50.00	56.20	5.9	3.6	2.3	5.5	2.58	58.78	58.78
Connecticut	50.00	50.00	50.00	56.20	6.8	4.2	2.6	8.5	3.99	60.19	60.19
Delaware	50.00	50.00	50.00	56.20	5.7	3.2	2.5	8.5	3.99	60.19	60.19
District of Columbia	70.00	70.00	70.00	76.20	8.0	5.7	2.3	5.5	1.48	77.68	77.68
Florida	56.83	55.40	56.83	63.03	7.5	3.3	4.2	11.5	4.61	67.64	67.64
Georgia	63.10	64.49	64.49	70.69	7.5	4.3	3.2	8.5	2.75	73.44	73.44
Hawaii	56.50	55.11	56.50	62.70	5.0	2.3	2.7	8.5	3.43	66.13	66.13
Idaho	69.87	69.77	69.87	76.07	5.8	2.7	3.1	8.5	2.30	78.37	78.37
Illinois	50.00	50.32	50.32	56.52	7.4	4.3	3.1	8.5	3.96	60.48	60.48
Indiana	62.69	64.26	64.26	70.46	7.3	4.4	2.9	8.5	2.77	73.23	73.23
Iowa	61.73	62.62	62.62	68.82	4.4	3.5	0.9	0	0.00	68.82	68.82
Kansas	59.43	60.08	60.08	66.28	5.0	3.9	1.1	0	0.00	66.28	66.28
Kentucky	69.78	70.13	70.13	76.33	7.2	5.2	2.0	5.5	1.47	77.80	77.80
Louisiana	72.47	71.31	72.47	78.67	5.6	3.5	2.1	5.5	1.34	80.01	80.01
Maine	63.31	64.41	64.41	70.61	6.3	4.4	1.9	5.5	1.79	72.40	72.40
Maryland	50.00	50.00	50.00	56.20	5.3	3.5	1.8	5.5	2.58	58.78	58.78
Massachusetts	50.00	50.00	50.00	56.20	6.1	4.3	1.8	5.5	2.58	58.78	58.78
Michigan	58.10	60.27	60.27	66.47	9.8	6.7	3.1	8.5	3.11	69.58	69.58
Minnesota	50.00	50.00	50.00	56.20	6.4	3.8	2.6	8.5	3.99	60.19	60.19

ARRA ADJUSTMENTS TO FMAP—Continued

State	FY08 original FMAP	FY09 original FMAP	Hold harmless FY 09	Hold harmless FY09 FMAP with 6.2% pt increase	3-Month average unemployment rate ending Dec 2008	Minimum unemployment	Unemployment difference	Unemployment tier	Unemployment adjustment	1st Quarter FY09 FMAP adjust (incl HH–6.2–unemployment)	2nd Quarter FY09 FMAP adjust (incl HH–6.2–unemployment)
Mississippi	76.29	75.84	76.29	82.49	7.4	5.9	1.5	5.5	1.13	83.62	83.62
Missouri	62.42	63.19	63.19	69.39	6.8	4.6	2.2	5.5	1.85	71.24	71.24
Montana	68.53	68.04	68.53	74.73	5.0	3.1	1.9	5.5	1.56	76.29	76.29
Nebraska	58.02	59.54	59.54	65.74	3.8	2.8	1.0	0	0.00	65.74	65.74
Nevada	52.64	50.00	52.64	58.84	8.3	4.1	4.2	11.5	5.09	63.93	63.93
New Hampshire	50.00	50.00	50.00	56.20	4.3	3.4	0.9	0	0.00	56.20	56.20
New Jersey	50.00	50.00	50.00	56.20	6.4	4.2	2.2	5.5	2.58	58.78	58.78
New Mexico	71.04	70.88	71.04	77.24	4.5	3.2	1.3	0	0.00	77.24	77.24
New York	50.00	50.00	50.00	56.20	6.2	4.3	1.9	5.5	2.58	58.78	58.78
North Carolina	64.05	64.60	64.60	70.80	7.9	4.5	3.4	8.5	2.75	73.55	73.55
North Dakota	63.75	63.15	63.75	69.95	3.4	3.1	0.3	0	0.00	69.95	69.95
Ohio	60.79	62.14	62.14	68.34	7.4	5.3	2.1	5.5	1.91	70.25	70.25
Oklahoma	67.10	65.90	67.10	73.30	4.6	3.1	1.5	5.5	1.64	74.94	74.94
Oregon	60.86	62.45	62.45	68.65	8.1	5	3.1	8.5	2.93	71.58	71.58
Pennsylvania	54.08	54.52	54.52	60.72	6.2	4.3	1.9	5.5	2.33	63.05	63.05
Rhode Island	52.51	52.59	52.59	58.79	9.5	4.9	4.6	11.5	5.10	63.89	63.89
South Carolina	69.79	70.07	70.07	76.27	8.6	5.7	2.9	8.5	2.28	78.55	78.55
South Dakota	60.03	62.55	62.55	68.75	3.5	2.6	0.9	0	0.00	68.75	68.75
Tennessee	63.71	64.28	64.28	70.48	7.3	4.5	2.8	8.5	2.77	73.25	73.25
Texas	60.56	59.44	60.56	66.76	5.8	4.2	1.6	5.5	2.00	68.76	68.76
Utah	71.63	70.71	71.63	77.83	3.9	2.5	1.4	0	0.00	77.83	77.83
Vermont	59.03	59.45	59.45	65.65	5.7	3.5	2.2	5.5	2.06	67.71	67.71
Virginia	50.00	50.00	50.00	56.20	4.8	2.9	1.9	5.5	2.58	58.78	58.78
Washington	51.52	50.94	51.52	57.72	6.6	4.4	2.2	5.5	2.50	60.22	60.22
West Virginia	74.25	73.73	74.25	80.45	4.7	4.4	0.3	0	0.00	80.45	80.45
Wisconsin	57.62	59.38	59.38	65.58	5.7	4.5	1.2	0	0.00	65.58	65.58
Wyoming	50.00	50.00	50.00	56.20	3.3	2.8	0.5	0	0.00	56.20	56.20
Territories:											
American Samoa	50.00	50.00	.....	.....	.....	.....	.....	.....	.....	.....	.....
Guam	50.00	50.00	.....	.....	.....	.....	.....	.....	.....	.....	.....
Northern Mariana Islands	50.00	50.00	.....	.....	.....	.....	.....	.....	.....	.....	.....
Puerto Rico	50.00	50.00	.....	.....	.....	.....	.....	.....	.....	.....	.....
Virgin Islands	50.00	50.00	.....	.....	.....	.....	.....	.....	.....	.....	.....

[FR Doc. E9–9095 Filed 4–20–09; 8:45 am]

BILLING CODE 4210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Advisory Committee on Minority Health

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science, Office of Minority Health.

ACTION: Notice of meeting.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (DHHS) is hereby giving notice that the Advisory Committee on Minority Health (ACMH) will hold a meeting. This meeting is open to the public. Preregistration is required for both public attendance and comment. Any individual who wishes to attend the meeting and/or participate in the public comment session should e-mail *acmh@osophs.dhhs.gov.*

DATES: The meeting will be held on Tuesday, May 12, 2009 from 9 a.m. to 5 p.m. and Wednesday, May 13, 2009 from 9 a.m. to 1 p.m.

ADDRESSES: The meeting will be held at the Doubletree Hotel, 1515 Rhode Island Ave., NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Ms. Monica A. Baltimore, Tower Building, 1101 Wootton Parkway, Suite 600, Rockville, Maryland 20852. *Phone:* 240–453–2882, *Fax:* 240–453–2883.

SUPPLEMENTARY INFORMATION: In accordance with Public Law 105–392, the ACMH was established to provide advice to the Deputy Assistant Secretary for Minority Health in improving the health of each racial and ethnic minority group and on the development of goals and specific program activities of the Office of Minority Health.

Topics to be discussed during this meeting will include health care reform: health care access, social determinants of health, and the role of culture and health, as well as other related issues.

Public attendance at the meeting is limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the designated contact person at least fourteen (14) business days prior to the meeting. Members of the public will have an opportunity to provide comments at the meeting. Public comments will be limited to three minutes per speaker. Individuals who would like to submit written statements should mail or fax their comments to the Office of Minority Health at least seven (7) business days prior to the meeting. Any members of the public who wish to have printed material distributed to ACMH committee members should submit their materials to the Executive Secretary, ACMH, Tower Building, 1101 Wootton Parkway, Suite 600, Rockville, Maryland 20852, prior to close of business May 5, 2009.

Dated: April 9, 2009.

Garth Graham,

Deputy Assistant Secretary for Minority Health, Office of Minority Health, Office of Public Health and Science, Office of the Secretary, U.S. Department of Health and Human Services.

[FR Doc. E9–9143 Filed 4–20–09; 8:45 am]

BILLING CODE 4150–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of Resources and Technology; Statement of Organization, Functions, and Delegations of Authority

Part A, Office of the Secretary, Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (HHS) is being amended as Chapter AM, Office of Resources and Technology, as last amended 72 FR 56074–75, dated October 2, 2007. This reorganization will establish an Office of Recovery Act Coordination (AMV) within the Office of Resources and Technology (ORT) to coordinate within HHS the American Recovery and Reinvestment Act of 2009 and the Office of Management and Budget (OMB) implementing guidelines. This reorganization will make the following changes under Chapter AM, Office of Resources and Technology:

A. Under Section AM.10 Organization, delete in its entirety and replace with the following:

Section AM.10 Organization: The Office of Resources and Technology is headed by the Assistant Secretary for Resources and Technology (ASRT). The Assistant Secretary for Resources and Technology is the Departmental Chief Financial Officer (CFO), and reports to the Secretary. The office consists of the following components:

- Immediate Office of the Assistant Secretary (AM).
- Office of Budget (AML).
- Office of Chief Information Officer (AMM).
- Office of Finance (AMS).
- Office of Grants (AMT).
- Office of Recovery Act Coordination (AMV).

B. Under Section AM.20 Functions, add the following new Chapter AMV, Office of Recovery Act Coordination:

Section AMV.00 Mission

The Office of Recovery Act Coordination (ORAC) is responsible for coordinating the implementation of the American Recovery and Reinvestment Act of 2009 (ARRA or Recovery Act) within the Department of Health and Human Services (FIRS). The ORAC ensures that HHS meets the statutory requirements of the Recovery Act and follows the Office of Management and Budget's (OMB) implementing guidance. ORAC acts as the official repository of HHS Recovery Act information and data. As such, it is the authoritative source for information and data for all memoranda and reports provided to the Secretary, and formal communications to OPDIVs and STAFFDIVs. The ORAC is also the authoritative source for accurate and up-to-date information for all communications, including electronic communication, to OMB, the Congress and the public.

To carry out its mission, the ORAC coordinates with all relevant business management functions managed by STAFFDIVs, such as public affairs, grants and contract management, financial management, budget, planning and evaluation, information technology, and the Office of the General Counsel. It also coordinates closely with the OPDIVs that manage appropriated funds and programs authorized under the Recovery Act.

By convening meetings and workgroups of senior HHS program and business managers and by working in close collaboration with existing business management and program offices, the ORAC ensures that funds are awarded in a prompt, fair and reasonable manner; that recipients and users of all funds are transparent to the public; that the public benefits of these funds are reported clearly and accurately; that reporting due dates are met; that performance outcomes are established and tracked; that projects and activities funded under the Recovery Act are achieved while mitigating risk; and that the Office of the Assistant Secretary for Public Affairs is able to keep the public constantly informed through the web and other means of communications.

Section AMV.10 Organization

The Office of Recovery Act Coordination is headed by a Deputy Assistant Secretary for Recovery Coordination, reports to the Assistant Secretary for Resources and Technology, and is responsible for meeting performance objectives set by the HHS Senior Accountable official.

ORAC includes the following components:

- Immediate Office of the Recovery Act Coordination (AMV).
- Division of Management and Performance (AMV1).
- Division of Planning and Presentation (AMV2).
- Division of Project Coordination (AMV3).

Section AMV.20 Function

1. Immediate Office of Recovery Act Coordination (AMV)

The Immediate Office of Recovery Act Coordination (ORAC) is responsible for: (a) providing advice and counsel to the Secretary, the Senior Accountable Official, and the Assistant Secretary for Resources and Technology (ASRT) on all issues related to the Recovery Act; and (b) convening senior HHS program and business mangers in order to coordinate activities of the Recovery Act and the Office of Management and Budget's (OMB's) implementing guidelines related to the Recovery Act.

2. Division of Management and Performance (AMV1)

The Division of Management and Performance (DMP) is responsible for:

(a) Ensuring that accountability measures for all ARRA projects and activities are identified, coordinated with the HHS Office of Inspector General (OIG) and implemented according to schedules.

(b) Coordinating with the General Accounting Office (GAO) and the OIG on all matters relating to the integrity of projects and activities supported by the ARRA.

(c) Managing HHS contacts with the Recovery Accountability and Transparency Board.

(d) Identifying and coordinating the timely preparation of all reports required by ARRA and OMB's guidance.

(e) Coordinating the development and implementation of procedures for performance reporting by recipients of funds under the ARRA.

(f) Providing management support to the Deputy Assistant Secretary and ORAC staff including correspondence control.

(g) Establishing and maintaining all files and records related to the Recovery Act.

(h) Managing the distribution and maintenance of all guidance developed by ORAC.

3. Division of Planning and Presentation (AMV2)

The Division of Planning and Presentation (DPP) is responsible for:

(a) Designing and assembling project plans for implementing all essential projects and activities required by the American Recovery and Reinvestment Act (ARRA) and related Office of Management and Budget guidance.

(b) Identifying for each project plan the key tasks, milestones, and activities requiring coordination with HHS program and business functions managed by OPDIVs and STAFFDIVs.

(c) Updating the project plans regularly as required.

(d) Preparing executive level reports that portray the overall status of ARRA implementation based on individual project and activity plans. These status

reports will provide the basis for ARRA briefings and reports to the Secretary, the ARRA Implementation Team, the Recovery Act Technical Council, OMB, the Congress, and the public.

(e) Reviewing and coordinating external communications related to ARRA implementation. As the authoritative source for information on ARRA implementation, DPP will work closely with the Office of the Assistant Secretary for Public Affairs (ASPA), STAFFDIVs and OPDIVs on the preparation of all public statements and web communication related to ARRA.

(f) Preparing presentations and briefings on ARRA implementation to the Secretary, OMB, and in consultation, with the Office of the Assistant Secretary for Legislation, the Congress.

(g) Coordinating the preparation of the Implementation Plan required by ARRA and other similar reports to the Congress and OMB.

(h) Convening meetings and workgroups of senior HHS program and business managers in order to coordinate the development of the Recovery Act plans and projects.

4. Division of Project Coordination (DMV3)

The Division of Project Coordination (DPC) is responsible for:

(a) Establishing systems and procedures for coordinating the implementation plans for all relevant projects and activities of the ARRA and preparing guidance to all relevant HHS components specifying the roles and responsibilities of key components.

(b) Coordinating, through its project officers, each project and activity using the project plan designed by DPP as the framework for identifying key tasks, milestones and the matrix of business functions and offices that are involved in implementation.

(c) Identifying and resolving issues arising during implementation using coordination as a primary means for issue resolution.

(d) Preparing status reports against project plans as specified by DPP.

(e) Providing support to the Recovery Act Technical Council and the ARRA Implementation Team.

Dated: March 12, 2009.

Charles E. Johnson,

Acting Secretary.

[FR Doc. E9–9071 Filed 4–20–09; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Adult Treatment Drug Court Cross-Site Evaluation for the Substance Abuse and Mental Health Services Administration (SAMHSA)—NEW

SAMHSA's Center for Substance Abuse Treatment (CSAT) is responsible for collecting data from 20 recently funded Adult Treatment Drug Court grantees and clients being served by expansion and/or enhancement grants. The main evaluation question is whether the addition of substance abuse treatment resources increases the positive results of drug courts. SAMHSA's CSAT-funded grantees are required to participate in a cross-site evaluation as a contingency of their award. Data on each drug court and their processes will be collected during three annual site visits. Some data will be obtained through courtroom observations; no questionnaire will be administered to collect observational data. Additional data will be collected through interviews with drug court personnel and focus groups and interviews with drug court clients.

CSAT requests approval for administering questionnaires to drug court personnel. CSAT also requests approval for conducting focus groups with drug court clients and administering questionnaires at 6-months post-discharge from the drug court.

Drug Court Team Questionnaire

This questionnaire will be administered to key drug court personnel (*e.g.,* judge, drug court manager and treatment provider) during the three annual site visits to the drug court. This instrument consists of 15 open-ended questions, and will ask respondents about their role and involvement in the drug court process, perceptions of drug courts, and the role of treatment and coercion in drug courts (subject to OMB approval).

Drug Court Client Focus Group Questions for Guided Discussion

Focus groups will be conducted during the annual site visits to each drug court. During the focus groups, drug court clients will be asked 12 open-ended questions about their experiences in the drug court program and current efforts towards recovery. Drug court participants will be involved in focus groups on 1 to 3 occasions.

Procedural Justice Questionnaire

This instrument contains 13 items and asks drug court clients about their perceptions regarding fair treatment by the judge and drug court team during the drug court process. It is hypothesized that participants who perceive the judge and drug court team as fair will be more compliant with the drug court program, more likely to graduate, and have better substance use and criminal behavior outcomes (*e.g.,* reduced substance use, fewer arrests). This questionnaire will be administered to drug court participants once, during the 6-month post-discharge interview.

Correctional Mental Health Screener for Women

A mental health screener for women (CMHS–W) will be administered to gather data on drug court participants' mental health. Many drug court clients have co-occurring disorders (*i.e.,* substance use and mental health disorders). The information gathered during this portion of the in-person drug court client interviews will provide a post-discharge indicator of mental health status and will be used as a moderator variable when assessing client outcomes such as drug use and arrest. This questionnaire will be administered to drug court participants

once, during the 6-month post-discharge interview. The CMHS–W contains eight questions, and six items are common between the men and women's versions of the instrument.

Correctional Mental Health Screener for Men

A mental health screener for men (CMHS–M) will be administered to gather data on drug court participants' mental health. Many drug court clients have co-occurring disorders (*i.e.,* substance use and mental health disorders). The information gathered during this portion of the in-person drug court client interviews will provide a post-discharge indicator of mental health status and will be used as a moderator variable when assessing client outcomes such as drug use and arrest. This questionnaire will be administered to drug court participants once, during the 6-month post-discharge interview. The CMHS–M contains twelve questions and the two instruments have six items in common.

Treatment Satisfaction Index

The Treatment Satisfaction Index will ask drug court participants about their satisfaction with treatment received during the drug court program. This 19-item questionnaire will be administered to drug court participants once, during the 6-month post-discharge interview.

The estimated response burden for this data collection is provided in the table below:

ANNUALIZED ESTIMATES OF HOUR BURDEN

	Number of respondents	Responses per respondent	Total responses	Hours per response	Total hour burden
Drug Court Team Questionnaire	240	3	720	.5	120
Drug Court Clients Focus Group Questions for Guided Discussion	600	1	600	1.0	600
Drug Court Clients—Interviews	816	1	816	.5	408
Procedural Justice Questionnaire	816	1	816	.09	73
Correctional Mental Health Screener—Women	408	1	408	.08	33
Correctional Mental Health Screener—Men	408	1	408	.08	33
Treatment Satisfaction Index	816	1	816	.08	65
Total	1,656	.....	2,136	.....	1,128

The estimates in this table reflect the maximum burden for participation in the Adult Treatment Drug Court Cross-Site Evaluation. Burden for drug court personnel is aggregated to reflect total burden over the three-year study period. The drug court personnel questionnaire will be administered three times; once during each of three study years. Burden for the drug court clients is annualized. Focus groups and interviews are one-time events. Some drug court clients will participate in both a focus group and 6-month post-discharge interview.

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 7–1044, One Choke Cherry Road, Rockville, MD 20857 *and* e-mail her a copy at *summer.king@samhsa.hhs.gov.* Written comments should be received within 60 days of this notice.

Dated: April 13, 2009.

Elaine Parry,

Director, Office of Program Services.

[FR Doc. E9–9072 Filed 4–20–09; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: State Developmental Disabilities Council 5-Year State Plan.

OMB No.: 0980–0162.

Description: A Plan developed by the State Council on Developmental Disabilities is required by federal statute. Each State Council on Developmental Disabilities must develop the plan, provide for public comments in the State, provide for approval by the State's Governor, and finally submit the plan on a five-year basis. On an annual basis, the Council must review the plan and make any amendments. The State Plan will be used (1) By the Council as a planning document; (2) by the citizenry of the State as a mechanism for commenting on the plans of the Council; and (3) by the Department as a stewardship tool, for ensuring compliance with the Developmental Disabilities Assistance and Bill of Rights Act, as one basis for providing technical assistance (e.g., during site visits), and as a support for management decision making.

Respondents: State Govenments.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
State Developmental Disabilities Council 5-Year State Plan	55	1	367	20,185

Estimated Total Annual Burden Hours: 20,185.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, *Attn:* ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. *E-mail address: infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it

within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, *Fax:* 202–395–6974, *Attn:* Desk Officer for the Administration for Children and Families.

Dated: April 16, 2009.

Janean Chambers,

Reports Clearance Officer.

[FR Doc. E9–9106 Filed 4–20–09; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2007–D–0031] (formerly Docket No. 2007D–0233)

Guidance for Industry on Integrated Summaries of Effectiveness and Safety: Location Within the Common Technical Document; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''Integrated Summaries of Effectiveness and Safety: Location Within the Common Technical Document.'' Since FDA began accepting new drug application (NDA) and biologics license application (BLA) submissions in the common technical document (CTD) format, there has been confusion regarding where within the CTD to include an integrated summary of effectiveness (ISE) and integrated summary of safety (ISS), both of which are required components of an NDA submission and recommended components of a BLA submission. This guidance informs applicants where to place the ISE and ISS in the CTD, addresses specific FDA requirements not discussed in the ICH guidance for industry ''M4E: The CTD—Efficacy,'' and is intended to improve application quality and consistency. This guidance finalizes the draft guidance of the same title published in the **Federal Register** of July 3, 2007 (72 FR 36471).

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993–0002; or the Office of Communication, Outreach and Development (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Howard Chazin, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, rm. 6470, Silver Spring, MD 20993–0002, 301–796–0700; or Stephen Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Integrated Summaries of Effectiveness and Safety: Location Within the Common Technical Document.'' This guidance is intended for applicants submitting an NDA or BLA in the CTD or electronic common technical document (eCTD) format. Since FDA adopted the CTD, a standard way to organize a marketing or licensing application, there has been confusion regarding where to place an ISE and ISS within the CTD. The ISE and ISS are unique requirements of the United States and are not addressed fully by ICH M4E.

FDA considers the ISE and ISS critical components of the clinical efficacy and safety portions of a marketing or licensing application. Therefore, the ISE and ISS are required in NDA applications submitted to FDA in accordance with the regulations in 21 CFR 314.50(d)(5)(v) and (d)(5)(vi)(a). Although there are no corresponding regulations requiring an ISE or ISS for BLAs, applicants are encouraged to provide these analyses.

A common problem with the way many of the CTD-formatted applications are submitted is that applicants incorrectly assume that the clinical summaries in Module 2 satisfy the regulatory requirements for the ISE and ISS. This assumption can result in a determination by FDA that an application is incomplete. Despite their names, the ISE and ISS are detailed integrated analyses of all relevant data from the clinical study reports, not summaries. This guidance focuses on where to place ISE and ISS documents within the structure of the CTD or eCTD.

This guidance updates the part of sections II.G. and H. of the guidance on the ''Format and Content of the Clinical and Statistical Sections of an Application'' that relates to placement of the ISE and ISS. This guidance finalizes the draft guidance of the same title that published in the **Federal Register** of July 3, 2007 (72 FR 36471). No public comments were received regarding the draft guidance.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the agency's current thinking on the location for an ISE and ISS within the CTD. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/cder/guidance/index.htm*, *http://www.fda.gov/cber/guidelines.htm*, or *http://www.regulations.gov*.

Dated: April 10, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9–9051 Filed 4–20–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, Review of Collaborative Study on the Genetics of Alcoholism.

Date: May 13–15, 2009.

Time: May 13, 2009, 4 p.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Hotel at the Chevy Chase Pavilion, 4300 Military Rd., Washington, DC 20015.

Time: May 14, 2009, 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Hotel at the Chevy Chase Pavilion, 4300 Military Rd., Washington, DC 20015.

Time: May 15, 2009, 8 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Hotel at the Chevy Chase Pavilion, 4300 Military Rd., Washington, DC 20015.

Contact Person: Beata Buzas, PhD, Scientific Review Officer, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 5635 Fishers Lane, Rm. 2081, Rockville, MD 20852. 301–443–0800. *bbuzas@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: April 10, 2009.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–8901 Filed 4–20–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, May 6, 2009, 9 a.m. to May 7, 2009, 10 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on April 7, 2009, 74 FR 15739–15740.

The meeting will be held May 28, 2009 to May 29, 2009. The meeting time and location remain the same. The meeting is closed to the public.

Dated: April 10, 2009.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–8896 Filed 4–20–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel Immunology.

Date: May 6, 2009.

Time: 10:30 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Patrick K. Lai, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2215, MSC 7812, Bethesda, MD 20892, 301–435–1052, *laip@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Immunology.

Date: May 7, 2009.

Time: 12 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Patrick K. Lai, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2215, MSC 7812, Bethesda, MD 20892, 301–435–1052, *laip@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel PROMISE II Support Centers.

Date: May 18, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.

Contact Person: Michael Micklin, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3136, MSC 7759, Bethesda, MD 20892, (301) 435–1258, *micklinm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel. PROMISE II Research Centers.

Date: May 19, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.

Contact Person: Michael Micklin, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3136, MSC 7759, Bethesda, MD 20892, (301) 435–1258, *micklinm@csr.nih.gov.*

Name of Committee: Bioengineering Sciences &; Technologies. Integrated Review Group, Biomaterials and Biointerfaces Study Section.

Date: May 20–21, 2009.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.

Contact Person: Steven J. Zullo, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5146, MSC 7849, Bethesda, MD 20892, 301–435–2810, *zullost@csr.nih.gov.*

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group, Gastrointestinal Mucosal Pathobiology Study Section.

Date: May 29, 2009.

Time: 7:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Avenue Hotel Chicago, 160 East Huron, Chicago, IL 60611.

Contact Person: Peter J. Perrin, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892, (301) 435–0682, *perrinp@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Molecular Neuropharmacology and Signaling Study Section.

Date: June 1–2, 2009.

Time: 8 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.

Contact Person: Deborah L. Lewis, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7850, Bethesda, MD 20892, 301–435–1224, *lewisdeb@csr.nih.gov*.

Name of Committee: Biobehavioral and Behavioral Processes, Integrated Review Group, Language and Communication Study Section.

Date: June 1–2, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.

Contact Person: Weijia Ni, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892, (301) 435–1507, *niw@csr.nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group, Radiation Therapeutics and Biology Study Section.

Date: June 1–2, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Bo Hong, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, 301–435–5879, *hongb@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cardiac Hypertrophy.

Date: June 1, 2009.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Maqsood A. Wani, DVM, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2114, MSC 7814, Bethesda, MD 20892, 301–435–2270, *wanimaqs@csr.nih.gov*.

Name of Committee: Brain Disorders and Clinical Neuroscience, Integrated Review Group, Anterior Eye Disease Study Section.

Date: June 1–2, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.

Contact Person: Jerry L. Taylor, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7846, Bethesda, MD 20892, 301–435–1175, *taylorje@csr.nih.gov*.

Name of Committee: Risk, Prevention and Health Behavior, Integrated Review Group, Psychosocial Risk and Disease Prevention Study Section.

Date: June 1–2, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza Tysons Corner Hotel, 1960 Chain Bridge Road, McLean, VA 22102.

Contact Person: Martha Faraday, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3110, MSC 7808, Bethesda, MD 20892, 301–435–3575, *faradaym@csr.nih.gov*.

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group, Behavioral Medicine, Interventions and Outcomes Study Section.

Date: June 1–2, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Rouge, 1315 16th Street, NW., Washington, DC 20036.

Contact Person: Lee S. Mann, JD, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7848, Bethesda, MD 20892, 301–435–0677, *mannl@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience, Integrated Review Group, Neural Basis of Psychopathology, Addictions and Sleep Disorders Study Section.

Date: June 1–2, 2009.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Washington, DC, 1250 22nd Street, NW., Washington, DC 20037.

Contact Person: Julius Cinque, MS, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7846, Bethesda, MD 20892, (301) 435–1252, *cinquej@csr.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology, Integrated Review Group, Virology—B Study Section.

Date: June 1–2, 2009.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.

Contact Person: Robert Freund, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3200, MSC 7848, Bethesda, MD 20892, 301–435–1050, *freundr@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 10, 2009.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–8895 Filed 4–20–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Injury Prevention and Control, Initial Review Group, (NCIPC, IRG)

Correction: This notice was published in the **Federal Register** on April 13, 2009, Volume 74, Number 69, Page 16878. The times and participant pass code has been changed to the following:

Times and Dates: 8 a.m.–8:15 a.m., April 22, 2009 (Open); 8:15 a.m.–4 p.m., April 22, 2009 (Closed).

Place: Teleconference, toll free: (877) 468–4185, Participant. *Passcode:* 4475689.

Contact Person For More Information: Jane Suen, Dr.P.H., M.S., NCIPC, CDC, 4770 Buford Highway, NE., Mailstop F–62, Atlanta, Georgia 30341, *Telephone:* (770) 488–4281.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: April 15, 2009.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E9–9188 Filed 4–20–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract

proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel. Review for Registry and Surveillance System in Hemoglobinopathies (RuSH) Pilot Studies.

Date: May 11, 2009.

Time: 9:30 a.m. to 2 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: William J Johnson, PhD, Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7178, Bethesda, MD 20892–7924. 301–435–0725. *johnsonwj@nhlbi.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 15, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–9133 Filed 4–20–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Meeting; Moving Into the Future—New Dimensions and Strategies for Women's Health Research for the National Institutes of Health

Notice is hereby given that the Office of Research on Women's Health (ORWH), Office of the Director, National Institutes of Health, Department of Health and Human Services, in collaboration with the Department of Obstetrics, Gynecology and Reproductive Sciences at the University of California, San Francisco (UCSF), will convene a public hearing and scientific workshop on May 27–29, 2009, at the UCSF, Mission Bay Conference Center, San Francisco, California.

Purpose of the Meeting

With rapid advances in science and wider global understanding of women's health and sex/gender contributions to well-being and disease, the purpose of the meeting is to ensure that NIH continues to support cutting edge women's health research that is based upon the most advanced techniques and methodologies. The meeting format is designed to promote an interactive discussion involving leading scientists, advocacy groups, public policy experts, health care providers, and the general public. The San Francisco meeting is the second in a series that will be convened throughout the Nation to assist the ORWH and the NIH to move into the next decade of women's health research.

As science and technology advance and fields such as computational biology demonstrate the power of interdisciplinary research, it remains critical for sex and gender factors to be integrated into broad experimental methodologies and scientific approaches such as stem cell research. Biomedical and behavioral research are also necessary to understand how cultural, ethnic, and racial differences influence the causes, diagnosis, progression, treatment, and outcome of disease among different populations, including women of diverse geographic locations and socioeconomic backgrounds. Furthermore, health differences among diverse populations of women remain a critical area in need of continued focus and attention.

The ORWH challenges all meeting attendees to assist the NIH in defining the women's health research agenda of the future, thinking beyond traditional women's health issues. The attendees need to identify creative strategies and areas of research that are best poised for advancement, address innovative ways to approach persistent issues of health and disease, and explore new scientific concepts and investigative approaches. The attendees need to pay attention to new areas of science application, new technologies, and continuing basic science investigations. The attendees should also consider clinical questions that are not currently the focus of research priorities to ensure that women's health research is optimally served and that the ORWH can continue to provide leadership for the benefit of women's health, nationally and internationally.

Meeting Format

The meeting will consist of public testimony, scientific panels, and six concurrent scientific working groups. Specifically, on May 27, individuals representing a full spectrum of organizations interested in biomedical and behavioral research on women's health issues will have an opportunity to provide public testimony from 2–6 p.m. On May 28 and 29, plenary sessions will focus on the intersection of health care, public policy, and biomedical research; on emerging issues and trends in health care; and on research paradigms of the future. The six concurrent afternoon sessions on May 28 will focus on a range of research areas, including global health, stem cell research, environmental health and reproduction, HIV/AIDS and women, information technology, and women in biomedical careers. On May 29, the morning session will be devoted to reports by the working group co-chairs regarding the recommendations emerging from working group deliberations on the previous day. The meeting will adjourn at 1 p.m. on May 29.

Public Testimony

ORWH invites individuals with an interest in research related to women's health to provide written and/or oral testimony on these topics and/or on issues related to the sustained advancement of women in biomedical careers. Due to time constraints, only one representative from an organization or professional specialty group may submit oral testimony. Individuals not representing an organized entity but a personal point of view are similarly invited to present written and/or oral testimony. A letter of intent to present oral testimony is necessary and should be sent electronically to *http://www.orwhmeetings.com/movingintothefuture/* or by mail to Ms. Jory Barone, Educational Services, Inc., 4350 East-West Highway, Suite 1100, Bethesda, MD 20814, no later than May 15, 2009. The date of receipt of the communication will establish the order of those selected to give oral testimony at the May meeting.

Those wishing to present oral testimony are also asked to submit a written form of their testimony that is limited to a maximum of 10 pages, double spaced, 12 point font, and should include a brief description of the organization. Electronic submission to the above Web site is preferred; however, for those who do not have access to electronic means, written testimony, bound by the restrictions previously noted and postmarked no later than May 15, 2009, may be mailed to Ms. Jory Barone at the above address. All written presentations must meet the established page limitations. Submissions exceeding this limit will not be accepted and will be returned. Oral testimony of this material at the meeting will be limited to no more than 5–7 minutes in length.

Because of time constraints for oral testimony, testifiers may not be able to present the complete information as it is contained in their written form submitted for inclusion in the public record of the meeting. Therefore,

testifiers are requested to summarize the major points of emphasis from the written testimony, not to exceed 7 minutes of oral testimony. Those individuals and/or organizations who have indicated that they will present oral testimony at the meeting in San Francisco will be notified prior to the meeting regarding the approximate time for their oral presentation.

Individuals and organizations wishing to provide written statements *only* should send a copy of their statements, electronically or by mail, to the above Web site or address by May 15, 2009. Written testimony received by that date will be made available at the May 27–29 meeting. Logistics questions related to the May meeting should be addressed to Ms. Jory Barone at ESI, while program-specific questions should be addressed to Ms. Jennifer Millis at the University of California, San Francisco, 415–502–2563, *millisj@obgyn.ucsf.edu.*

This meeting is the second of four regional public hearings and scientific workshops of similar design to be convened by the ORWH. At the conclusion of the regional meetings, the ORWH will hold a meeting at the NIH to develop a summation of the deliberations from the regional meetings. The resulting report to the ORWH and the NIH will ensure that women's health research in the coming decade continues to support a vigorous research agenda incorporating the latest advances in technology and cutting edge science.

Dated: April 14, 2009.

Raynard S. Kington,

Acting Director, National Institutes of Health.

[FR Doc. E9–9131 Filed 4–20–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1829–DR; Docket ID FEMA–2008–0018]

North Dakota; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of North Dakota (FEMA–1829–DR), dated March 24, 2009, and related determinations.

DATES: *Effective Date:* April 6, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Justo Hernandez, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

This action terminates my appointment of Michael J. Hall as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–9064 Filed 4–20–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1828–DR; Docket ID FEMA–2008–0018]

Indiana; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Indiana (FEMA–1828–DR), dated March 5, 2009, and related determinations.

DATES: *Effective Date:* April 6, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Indiana is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of March 5, 2009.

Jennnings, Lawrence, Ohio, Posey, Ripley, and Scott Counties for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–9067 Filed 4–20–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1830–DR; Docket ID FEMA–2008–0018]

Minnesota; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Minnesota (FEMA–1830–DR), dated April 9, 2009, and related determinations.

DATES: *Effective Date:* April 10, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Minnesota is hereby amended to include Individual Assistance for the following areas among those areas determined to have been adversely affected by the event declared a major

disaster by the President in his declaration of April 9, 2009.

Clay, Norman, Traverse, and Wilkin Counties for Individual Assistance (already designated for Public Assitance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Nancy Ward,

Acting Administrator,

Federal Emergency Management Agency.

[FR Doc. E9–9066 Filed 4–20–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1829–DR; Docket ID FEMA–2008–0018]

North Dakota; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of North Dakota (FEMA–1829–DR), dated March 24, 2009, and related determinations.

DATES: *Effective Date:* April 10, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of North Dakota is hereby amended to include Individual Assistance for the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of March 24, 2009.

Adams, Barnes, Billings, Burleigh, Cass, Dickey, Emmons, Foster, Grand Forks, Hettinger, Kidder, LaMoure, Logan, McIntosh, Mercer, Morton, Nelson, Ransom, Richland, Sargent, Stutsman, and Williams Counties for Individual Assistance (already designated for emergency protective measures [Category B], including direct Federal assistance, under the Public Assistance program).

Griggs, Steele, Towner, and Traill Counties for Individual Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–9065 Filed 4–20–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1830–DR; Docket ID FEMA–2008–0018]

Minnesota; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Minnesota (FEMA–1830–DR), dated April 9, 2009, and related determinations.

DATES: *Effective Date:* April 9, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 9, 2009, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Minnesota resulting from severe storms and flooding beginning on March 16, 2009, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (''the Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Minnesota.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Other Needs Assistance under Section 408 of the Stafford Act is later warranted, Federal funding under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that Michael H. Smith, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Minnesota have been designated as adversely affected by this major disaster:

Clay, Kittson, Marshall, Norman, Polk, Traverse, and Wilkin Counties for Public Assistance.

All counties within the State of Minnesota are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–9068 Filed 4–20–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5319–N–01]

Federal Housing Administration (FHA) Title I Manufactured Home Loan Program:Notification of Availability of Program Reform Implementation and Request for Comments

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD has issued a 2009 Title I Letter 2009 to implement the reforms that were made to the Title I Manufactured Home Loan Program pursuant to the FHA Manufactured Housing Modernization Act. The letter is available at *www.hud.gov/fha.* Through this notice, HUD solicits comments on the implementation of these reforms as presented in the letter. HUD will take these comments into consideration in the development of a final rule that will follow the letter, and codify in regulation the reforms to the Title I Manufactured Home Loan Program.

DATES: *Comment Due Date:* June 22, 2009.

ADDRESSES: Interested persons are invited to submit comments regarding the 2009 title I Letter 2009 to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 10276, Washington, DC 20410–0500. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 10276, Washington, DC 20410–0500.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at *www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *www.regulations.gov* Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an appointment to review the public comments must be scheduled in advance by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Information Relay Service at 800–877–8339. Copies of all comments submitted are available for inspection and downloading at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For information contact, Margaret Burns, Director, Office of Single Family Program Development, Office of Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 9278, Washington, DC 20410–8000; telephone number 202–708–2121. (This is not a toll-free number.) Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

The FHA Manufactured Housing Loan Modernization Act of 2008 (Subtitle B of Title II of the Housing and Economic Recovery Act of 2008; Public Law 110–289, approved July 30, 2008) (Act), amended various provisions in section 2 of Title I of the National Housing Act (12 U.S.C. 1703 *et seq.*) relating to the Manufactured Home Loan Program for the purpose of providing: (1) Adequate funding for FHA insured manufactured housing for low and moderate income homebuyers, (2) modernizing the FHA Title I insurance program for manufactured housing loans to enhance participation by Ginnie Mae and the private lending markets, and (3) to adjust the low loan limits for Title I manufactured home loan insurance to reflect the increase in costs since such limits were last increased in 1992 and to index the limits to inflation.

The Act revised the FHA Title I Manufactured Home Loan Program by: (1) Increasing the loan limits and establishing indexing for future adjustments based on inflation, (2) changing the insurance type from portfolio insurance to individual loan insurance, (3) providing that insurance on each individually Title I insured manufactured home loan be incontestable, except for fraud or misrepresentation, (4) changing the method for calculating the insurance premium by allowing for both an upfront insurance premium, not to exceed 2.25 percent, and an annual insurance premium to be paid during the term of the loan, not to exceed 1.0 percent, (5) revising the underwriting criteria for loans and advances of credit in connection with the Title I manufactured home loan products as may be necessary to ensure that the program is financially sound, and (6) requiring a leasehold agreement if a manufactured home unit is to be situated in a manufactured home community. The term of the lease must not less than 3 years, renewable upon expiration of the original term by successive 1 year terms. The lessor must provide the lessee written notice of termination of the lease not less than 180 days prior to expiration of the current lease.

A Title I Letter has been issued to implement these reforms. HUD requests comments from lenders and other interested parties with regard to the implementation of these reforms. All comments received will be reviewed and considered by HUD in its development of a rule amending the Title I Manufactured Home Loan Program regulations at 24 CFR part 201. The rule will adopt the letter as issued or as may be revised pursuant to public comment or further consideration by HUD. Although FHA welcomes comments on all aspects of the Title I Letter, it is especially interested in receiving comments concerning upfront and periodic insurance charges, the methodology for indexing so as to be able to annually adjust the maximum loan limits, the underwriting criteria, and the potential economic costs and benefits of the reforms contained in the letter.

Comments must be submitted by the deadline date established in the **DATES** section of this notice, and in accordance with the instructions contained in the **ADDRESSES** section of this notice.

Dated: April 14, 2009.

Brian D. Montgomery,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. E9–9121 Filed 4–20–09; 8:45 am]

BILLING CODE 4210–67–P

INTER–AMERICAN FOUNDATION BOARD

Inter-American Foundation Board Meeting; Sunshine Act Meetings

TIME AND DATE: April 27, 2009, 9 a.m.–1 p.m.

PLACE: 901 N. Stuart Street, Tenth Floor, Arlington, Virginia 22203.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

- Approval of the Minutes of the December 15, 2008, Meeting of the Board of Directors
- President's Report
- Regional and Summit of the Americas Overview
- Congressional Affairs
- IAF Program Activities
- RedEAmerica
- Operations
- IAF Advisory Council
- Board Site Visit

PORTIONS TO BE OPEN TO THE PUBLIC:

- Approval of the Minutes of the December 15, 2008, Meeting of the Board of Directors
- President's Report
- Regional and Summit of the Americas Overview
- Congressional Affairs
- IAF Program Activities
- RedEAmerica
- Operations
- IAF Advisory Council
- Board Site Visit

FOR FURTHER INFORMATION CONTACT: Jennifer Hodges Reynolds, General Counsel, (703) 306–4301.

Dated: April 13, 2009.

Jennifer Hodges Reynolds,

General Counsel.

[FR Doc. E9–9215 Filed 4–17–09; 4:15 pm]

BILLING CODE 7025–01–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

Agency Information Collection Activity; National Cooperative Geologic Mapping Program (EDMAP and STATEMAP)

AGENCY: U.S. Geological Survey (USGS).

ACTION: Notice of a new information collection.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to the Office of Management and Budget (OMB) a new information collection request (ICR) for approval of the paperwork requirements for the National Cooperative Geologic Mapping Program (NCGMP). The NCGMP has two components: educational (EDMAP) and State (STATEMAP). This notice provides the public an opportunity to comment on the paperwork burden of the application requirements discussed below.

DATES: You must submit comments on or before May 21, 2009.

ADDRESSES: Please submit comments on this information collection directly to the Office of Management and Budget, Office of Information and Regulatory Affairs, *Attention:* Desk Officer for the Department of the Interior, via e-mail [*OIRA_DOCKET@omb.eop.gov*] or fax (202) 395–5806; and identify your submission as 1028–NEW. Please also submit a copy of your comments to Phadrea Ponds, USGS Information Collection Clearance Officer, 2150–C Center Avenue, Fort Collins, CO 80525 (mail); (970) 226–9230 (fax); or *pponds@usgs.gov* (e-mail). Please reference Information Collection 1028–NEW, NCGMP in the subject line.

FOR FURTHER INFORMATION PLEASE CONTACT: To request additional information about this ICR, contact Randall Orndorff, Associate Program Coordinator (STATEMAP and EDMAP), National Cooperative Geological Mapping Program, U.S. Geological Survey, 12201 Sunrise Valley Drive, MS 908, Reston, VA 20192 (mail); at 703–648–4316 (telephone); or *rorndorff@usgs.gov* (e-mail).

SUPPLEMENTARY INFORMATION:

I. Abstract

The primary objective of the EDMAP component of the NCGMP is to train the next generation of geologic mappers. To do this, NCGMP provides funds for graduate and selected undergraduate students in academic research projects that involve geologic mapping as a major component. Through these cooperative agreements, NCGMP hopes to expand the research and educational capacity of academic programs that teach earth science students the techniques of geologic mapping and field data analysis. We will accept only one proposal from an individual principal investigator (professor or faculty advisor), although we will accept more than one proposal from a single university if authored by different principal investigators. Although EDMAP awards support student mapping in the field, the student's faculty advisor must write the proposal. All applications must be submitted through Grants.gov.

The primary objective of the STATEMAP component of the NCGMP is to establish the geologic framework of areas determined to be vital to the economic, social, or scientific welfare of individual States. The State geologist determines mapping priorities in consultation with a multi-representational State Mapping Advisory Committee. We will accept only one proposal from each State each fiscal year. Proposals may contain a number of geologic mapping projects and may include one compilation or digitization project, or all projects may be for new mapping if the State chooses. All applications must be submitted through Grants.gov.

II. Data

OMB Control Number: None. This is a new collection.

Title: National Cooperative Geologic Mapping Program (EDMAP and STATEMAP).

Respondent Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Annually.

Estimated Number and Description of Respondents: 101. U.S. accredited university geoscience or related departments are eligible for EDMAP funds. University professors must write and submit the proposals. Only State Geological Surveys are eligible to apply for the STATEMAP component. Since many State Geological Surveys are organized under a State university system, such universities may submit a proposal on behalf of the State Geological Survey.

Estimated Number of Annual Responses: 101.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: 2,020. We expect to receive 55 applications for EDMAP and 46 for STATEMAP, each taking 20 hours to complete. This includes the time for project conception and development, proposal writing and reviewing, and submitting a project narrative through Grants.gov.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: There are no ''non-hour cost'' burdens associated with this collection of information.

III. Request for Comments

On April 22, 2008, we published a **Federal Register** notice (73 FR 21646) soliciting comments on the STATEMAP component. The comment period closed on June 23, 2008. On August 26, 2008,

we published a **Federal Register** notice (73 FR 50341) soliciting comments on the EDMAP component. The comment period for this notice closed on October 27, 2008. We did not receive any comments in response to these notices.

We again invite comments concerning this ICR on: (a) Whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, usefulness, and clarity of the information to be collected; and (d) ways to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, e-mail address or other personal identifying information in your comment, you should be aware that your entire comment including your personal identifying information, may be made publically available at anytime. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: April 7, 2009.

Randall Orndorff,

Associate Program Coordinator, U.S. Geological Survey.

[FR Doc. E9–9092 Filed 4–20–09; 8:45 am]

BILLING CODE 4311–AM–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–458 and 731–TA–1154 (Final)]

Certain Kitchen Appliance Shelving and Racks From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation No. 701–TA–458 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigation No. 731–TA–1154 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized imports from China and less-than-fair-value imports from China of certain kitchen appliance shelving and racks, provided for in subheadings 8418.99.80, 7321.90.50, 7321.90.60, and 8516.90.80 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

DATES: *Effective Date:* April 15, 2009.

FOR FURTHER INFORMATION CONTACT: Joanna Lo (202–205–1888), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China of certain kitchen appliance shelving and racks (74 FR 683), and that imports from China are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b) (74 FR 9591). The investigations were requested in a petition filed on July 31, 2008, by Nashville Wire Producers, Inc., Nashville, TN; SSW Holding Company Inc., Elizabethtown, KY; and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied-Industrial and Service Workers International Union, and the International Association of Machinists and Aerospace Workers, District Lodge 6, Clinton, IA.

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as ''shelving and racks for refrigerators, freezers, combined refrigerator-freezers, other refrigerating or freezing equipment, cooking stoves, ranges, and ovens (''certain kitchen appliance shelving and racks'' or ''the merchandise under investigation''). Certain kitchen appliance shelving and racks are defined as shelving, baskets, racks (with or without extension slides, which are carbon or stainless steel hardware devices that are connected to shelving, baskets, or racks to enable sliding), side racks (which are welded wire support structures for oven racks that attach to the interior walls of an oven cavity that does not include support ribs as a design feature), and subframes (which are welded wire support structures that interface with formed support ribs inside an oven cavity to support oven rack assemblies utilizing extension slides) with the following dimensions:

—Shelving and racks with dimensions ranging from 3 inches by 5 inches by 0.10 inch to 28 inches by 34 inches by 6 inches; or

—Baskets with dimensions ranging from 2 inches by 4 inches by 3 inches to 28 inches by 34 inches by 16 inches; or

—Side racks from 6 inches by 8 inches by 0.1 inch to 16 inches by 30 inches by 4 inches; or

—Subframes from 6 inches by 10 inches by 0.1 inch to 28 inches by 34 inches by 6 inches.

The merchandise under investigation is comprised of carbon or stainless steel wire ranging in thickness from 0.050 inch to 0.500 inch and may include sheet metal of either carbon or stainless steel ranging in thickness from 0.020 inch to 0.2 inch. The merchandise under investigation may be coated or uncoated and may be formed and/or welded. Excluded from the scope of this investigation is shelving in which the support surface is glass. The merchandise subject to this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (''HTSUS'') statistical reporting numbers 8418.99.8050, 8418.99.8060, 7321.90.5000, 7321.90.6090, and 8516.90.8000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.''

rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on July 1, 2009, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on July 16, 2009, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before July 10, 2009. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on July 13, 2009, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is July 9, 2009. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is July 23, 2009; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before July 23, 2009. On August 6, 2009, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before August 12, 2009, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (c) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: April 15, 2009.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–9091 Filed 4–20–09; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Distributed Sensor Technologies

Notice is hereby given that, on March 9, 2008, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Distributed Sensor Technologies has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) The identities of the parties to the venture and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to section 6(b) of the Act, the identities of the parties to the venture are: Distributed Sensor Technologies, Inc., Santa Clara, CA; Redfern Integrated Optics, Inc., Santa Clara, CA; Optiphase, Inc., Van Nuys, CA; and University of Illinois, Chicago, Chicago, IL. The general area of Distributed Sensor Technologies' planned activity is to develop and integrate technologies that can be used to measure civil structure condition monitoring. The method being developed is utilizing distributed fiber sensing technology.

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. E9–8970 Filed 4–20–09; 8:45 am]

BILLING CODE 4410–11–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act; Notice of Matters To Be Deleted from the Agenda of a Previously Announced Agency Meeting

TIME AND DATE: 10 a.m., Tuesday, April 21, 2009.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

MATTER TO BE DELETED: 1. Final Rule—Part 717, Subpart E, Sections 717.40–717.43, Appendix E of NCUA's Rules and Regulations, Fair Credit Reporting.

2. Advance Notice of Proposed Rulemaking—Part 717, Subpart E, Sections 717.40–717.43, Appendix E of NCUA's Rules and Regulations, Fair Credit Reporting.

FOR FURTHER INFORMATION CONTACT: Mary Rupp, Secretary of the Board, Telephone: 703-518-6304.

Mary Rupp,

Board Secretary.

[FR Doc. E9–9268 Filed 4–17–09; 4:15 pm]

BILLING CODE P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0170]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to section 189a(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from March 26, 2009, to April 8, 2009. The last biweekly notice was published on April 7, 2009 (74 FR 15765).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rulemaking and Directives Branch, TWB–05–B01M, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Copies of written comments received may be examined at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner/requestor intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one

contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E–Filing rule, which the NRC promulgated in August 28, 2007 (72 FR 49139). The E–Filing process requires participants to submit and serve all adjudicatory documents over the Internet or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least five (5) days prior to the filing deadline, the petitioner/requestor must contact the Office of the Secretary by e-mail at *hearingdocket@nrc.gov,* or by calling (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html.* Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.*

Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC electronic filing Help Desk, which is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays. The help electronic filing Help Desk can be contacted by telephone at 1–866–672–7640 or by e-mail at *MSHD.Resource@nrc.gov.*

Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, *Attention:* Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville, Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp,* unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to this amendment action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–

4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov.*

Duke Energy Carolinas, LLC, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: August 21, 2008.

Description of amendment request: The proposed amendments would revise the proposed license amendment implements Technical Specification Task Force (TSTF) Changes Travelers TSTF–479, Revision 0, ''Changes to Reflect Revision of [Title 10 of the Code of Federal Regulations] 10 CFR 50.55a'' and TSTF–497, Revision 0, ''Limit Inservice Testing [IST] Program SR 3.0.2 Application to Frequencies of 2 Years or Less''. TSTF–479 and TSTF–497 revise the technical specification Administrative Controls section pertaining to requirements for the IST Program, consistent with the requirements of 10 CFR 50.55a(f)(4) for pumps and valves which are classified as American Society of Mechanical Engineers (ASME) Code Class 1, Class 2, and Class 3.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change revises TS [Technical Specification] 5.5.8, ''Inservice Testing Program,'' for consistency with the requirements of 10 CFR 50.55a(f)(4) regarding the inservice testing of pumps and valves which are classified as ASME Code Class 1, Class 2, and Class 3. The proposed change incorporates revisions to the ASME [American Society of Mechanical Engineers] Code as identified in the TSTFs [Technical Specification Task Force] referenced above.

The proposed change does not impact any accident initiators or analyzed events or assumed mitigation of accident or transient events. The proposed change does not involve the addition or removal of any equipment, or any design changes to the facility. Additionally, there is no change in the types or increases in the amounts of any effluent that may be released offsite and there is no increase in individual or cumulative occupational exposure.

Therefore, this proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No

The proposed change revises TS 5.5.8, ''Inservice Testing Program,'' for consistency with the requirements of 10 CFR 50.55a(f)(4) regarding the inservice testing of pumps and valves which are classified as ASME Code Class 1, Class 2, and Class 3. The proposed change incorporates revisions to the ASME Code as identified in the TSTFs referenced above. The proposed change does not involve a modification to the physical configuration of the plant nor does it involve a change in the methods governing normal plant operation. The proposed change will not impose any new or different requirements or introduce a new accident initiator, accident precursor, or malfunction mechanism. Additionally, there is no change in the types or increases in the amounts of any effluent that may be released offsite and there is no increase in individual or cumulative occupational exposure.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No

The proposed change revises TS 5.5.8, ''Inservice Testing Program,'' for consistency with the requirements of 10 CFR 50.55a(f)(4) regarding the inservice testing of pumps and valves which are classified as ASME Code Class 1, Class 2, and Class 3. The proposed change does not involve a modification to the physical configuration of the plant nor does it change the methods governingnormal plant operation. The proposed change incorporates revisions to the ASME Code as identified in the TSTFs referenced above.

The safety function of the affected pumps and valves will be maintained.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Lisa F. Vaughn, Associate General Counsel and Managing Attorney, Duke Energy Carolinas, LLC, 526 South Church Street, EC07H, Charlotte, NC 28202.

NRC Branch Chief: Melanie Wong.

Entergy Operations, Inc., Docket No. 50–313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: February 16, 2009.

Description of amendment request: The Arkansas Nuclear One, Unit No. 1 (ANO–1) Technical Specification (TS) 5.5.16, ''Reactor Building Leakage Rate Testing Program,'' contains reactor building leak rate criteria for overall Type A, B, and C testing. However, TS 5.5.16 does not specify criteria for Type B air lock leakage testing. Entergy Operations, Inc., proposes to modify TS 5.5.16 to add criteria for overall air lock leakage testing and to adopt a low pressure test method relevant to the air lock door seals. This change is consistent with NUREG 1430, Revision 3.1, ''Standard Technical Specifications (STS) for Babcock & Wilcox Plants.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The reactor building air locks are passive components integral to the reactor building structure and are not associated with accident initiators. Each air lock door is rated for and tested to the maximum calculated post-accident pressure of the reactor building. The air lock door seal pressure test is performed any time the air lock is used for reactor building access during modes of operation when reactor building integrity is required and prior to establishing reactor building integrity. The door seal test is intended to be a gross test to verify that the door seals were not damaged during the opening and closing cycle(s). This test does not replace the required overall barrel leakage test. Based on information provided by the air lock vendor, a test pressure of 10 psig [pounds per square inch gauge] is conservatively sufficient to perform this gross seal verification. This new acceptable leakage rate and test criteria are consistent with NUREG 1430, Rev. 3.1, Standard Technical Specifications for Babcock & Wilcox Plants (STS) and are applicable to ANO–1. While new to the TSs, the ANO–1 program for ensuring compliance with 10 CFR 50, Appendix J has verified leakage within the proposed limiting values.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

No physical changes to the facility are initiated by the proposed change. In addition, the proposed change has no affect on plant configuration, or method of operation of plant structures, systems, or components.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change does not increase the allowable overall air lock leakage rate, nor

affect the acceptance criteria of the overall integrated containment leakage rate as currently tested to in accordance with the ANO–1 containment leakage rate test program. All of the changes are bounded by existing analyses for all evaluated accidents and do not create any situations that alter the assumptions used in these analyses.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Terence A. Burke, Associate General Council—Nuclear Entergy Services, Inc., 1340 Echelon Parkway, Jackson, Mississippi 39213.

NRC Branch Chief: Michael T. Markley.

Entergy Operations, Inc., Docket No. 50–313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: March 10, 2009.

Description of amendment request: The proposed amendment consists of changes to Technical Specification (TS) 3.4.9, ''Pressurizer,'' which contains a maximum and minimum level for the pressurizer. The licensee proposes to delete the minimum level requirement. This change is consistent with NUREG 1430, Rev. 3.1, ''Standard Technical Specifications [STS] for Babcock and Wilcox Plants.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The minimum Pressure level limit currently specified in the TSs does not act to ensure specified fuel design limits are protected. Accident and transient analyses assume lowering or a loss of Pressurizer level. Safety systems are designed and maintained available to mitigate the consequences of an accident or transient that may involve a loss of Reactor Coolant System (RCS) inventory. None of these systems rely upon a predetermined minimum Pressurizer level in order to perform their intended function. Furthermore, the minimum Pressure level limit is unrelated to any anticipated accident initiator.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

No physical changes to the facility are initiated by the proposed change. In addition, the proposed change has no affect on plant configuration, or method of operation of plant structures, systems, or components.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Installed automatic control systems will continue to maintain Pressurizer level at a predetermined setpoint and are independent of a prescribed minimum TS level limit. The deletion of the current TS limit has no impact on guidance or operational response to pressurizer level deviations. Furthermore, the minimum Pressure level limit is not an assumed value for accident prevention or mitigation in the [Arkansas Nuclear One, Unit 1] [Safety Analysis Report].

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Terence A. Burke, Associate General Council—Nuclear Entergy Services, Inc., 1340 Echelon Parkway, Jackson, Mississippi 39213.

NRC Branch Chief: Michael T. Markley.

Exelon Generation Company, LLC, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: February 25, 2009.

Description of amendment request: The proposed change removes the reactor coolant system (RCS) structural integrity requirements contained in Technical Specification (TS) 3/4.4.8, which specifies requirements relating to the structural integrity of American Society of Mechanical Engineers (ASME) Code Class 1, 2 and 3 components. This specification is redundant to the requirements contained within Title 10 of the Code of Federal Regulations (10 CFR) section 50.55a, ''Codes and standards.'' With this proposed change, RCS pressure boundary structural integrity will continue to be maintained by compliance with 10 CFR 50.55a, as implemented through the Limerick Generating Station, Units 1 and 2, Inservice Inspection Program.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below, with NRC edits in brackets:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to remove the RCS structural integrity controls from the TSs does not impact any mitigation equipment or the ability of the RCS pressure boundary to fulfill any required safety function. Since no accident mitigation [equipment] or initiators are impacted by this change, no design basis accidents are affected. Therefore, the proposed change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change will not alter the plant configuration or change the manner in which the plant is operated. No new failure modes are being introduced by the proposed change.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

Removal of TS 3/4.4.8 from the TSs does not reduce the controls that are required to maintain the RCS pressure boundary for ASME Code Class 1, 2, or 3 components.

No equipment or RCS safety margins are impacted due to the proposed change. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: J. Bradley Fewell, Esquire, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: Harold K. Chernoff.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant, Units 3 and 4, Miami-Dade County, Florida

Date of amendment request: February 16, 2009.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TSs) by removing the structural integrity requirements contained in TS 3/4.4.10 and the associated TS bases from the TSs. Removal of TS 3/4.4.10 is consistent with NUREG–1431, Revision 3.0, ''Standard Technical Specifications Westinghouse Plants,'' in that it does not meet the criteria of Title 10 of the Code of Federal Regulations (10 CFR), Part 50, Section 50.36, ''Technical Specifications,'' for inclusion in the TSs. The proposed amendment would also relocate the reactor coolant pump (RCP) flywheel inspection requirements in Surveillance Requirement (SR) 4.4.10 to SR 4.0.5, and would revise the RCP flywheel inspection interval from 10 years to 20 years. The RCP flywheel inspection interval change is consistent with Nuclear Regulatory Commission approved Industry/Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF–421, ''Revision to RCP Flywheel Inspection Program (WCAP–15666).''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to remove structural integrity controls from the TSs does not impact any mitigation equipment or the ability of the RCS [reactor coolant system] pressure boundary to fulfill any required safety function. The proposed change will continue to ensure the requirements of 10 CFR 50.55a [''Codes and standards''] are maintained as specified in TS 4.0.5. Since no accident mitigation or initiators are impacted by this change, no design basis accidents are affected.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any previously evaluated?

Response: No.

The proposed change will not alter the plant configuration or change the manner in which the plant is operated. Structural integrity will continue to be maintained as required by 10 CFR 50.55a and specified in TS 4.0.5. No new failure modes are being introduced by the proposed change.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in the margin of safety?

Response: No.

Removal of TS 3/4.4.10 from the TSs does not reduce the controls that are required to maintain the structural integrity of ASME [American Society of Mechanical Engineers] Code Class 1, 2, or 3 components. No safety margins are impacted due to the proposed change.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M.S. Ross, Attorney, Florida Power & Light, P.O. Box 14000, Juno Beach, Florida 33408–0420.

NRC Branch Chief: Thomas H. Boyce.

Nine Mile Point Nuclear Station, LLC, (NMPNS) Docket Nos. 50–220 and 50–410, Nine Mile Point Nuclear Station Unit Nos. 1 and 2 (NMP 1 and 2), Oswego County, New York

Date of amendment request: February 11, 2009.

Description of amendment request: The proposed amendment would delete those portions of the Technical Specifications (TSs) superseded by 10 CFR Part 26, Subpart I. The proposed change is consistent with Nuclear Regulatory Commission (NRC)-approved Revision 0 to TS Task Force (TSTF) Change Traveler, TSTF–511–A, ''Eliminate Working Hour Restrictions from TS 5.2.2 to Support Compliance with 10 CFR Part 26.'' The availability of the TS improvement was announced in the **Federal Register** (FR) on December 30, 2008 (73 FR 79923) as part of the consolidated line item improvement process. The licensee concluded that the no significant hazards consideration determination as presented in the FR notice is applicable to NMP 1 and 2.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change removes Technical Specification restrictions on working hours for personnel who perform safety related functions. The Technical Specification restrictions are superseded by the worker fatigue requirements in 10 CFR Part 26. Removal of the Technical Specification requirements will be performed concurrently with the implementation of the 10 CFR Part 26, Subpart I, requirements. The proposed change does not impact the physical configuration or function of plant structures, systems, or components (SSCs) or the manner in which the SSCs are operated, maintained, modified, tested, and inspected. Worker fatigue is not an initiator of any accident previously evaluated. Worker fatigue is not an assumption in the consequence mitigation of any accident previously evaluated. Therefore, it is concluded that this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Accident Previously Evaluated

The proposed change removes Technical Specification restrictions on working hours for personnel who perform safety related functions. The Technical Specification restrictions are superseded by the worker fatigue requirements in 10 CFR Part 26. Working hours will continue to be controlled in accordance with NRC requirements. The new rule allows for deviations from controls to mitigate or prevent a condition adverse to safety or as necessary to maintain the security of the facility. This ensures that the new rule will not unnecessarily restrict working hours and thereby create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change does not alter the plant configuration, require new plant equipment to be installed, alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in a Margin of Safety

The proposed change removes Technical Specification restrictions on working hours for personnel who perform safety related functions. The Technical Specification restrictions are superseded by the worker fatigue requirements in 10 CFR Part 26. Working hours will continue to be controlled in accordance with NRC requirements. The proposed change does not involve any physical changes to the plants or alter the manner in which plant systems are operated, maintained, modified, tested, and inspected. The proposed change does not alter the manner in which safety limits, limiting safety

system settings or limiting conditions for operation are determined. The safety analysis acceptance criteria are not affected by this change. The proposed change will not result in plant operation in a configuration outside the design basis. The proposed change does not adversely affect systems that respond to safely shutdown the plants and to maintain the plants in a safe shutdown condition. Removal of plant-specific Technical Specification administrative requirements will not reduce a margin of safety because the requirements in 10 CFR Part 26 are adequate to ensure that worker fatigue is managed. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1700 K Street, NW., Washington, DC 20006.

NRC Branch Chief: Mark G. Kowal.

PPL Susquehanna, LLC, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: February 20, 2009.

Description of amendment request: The proposed amendment would modify Technical Specifications (TS) requirements related to control room envelope habitability in TS 3.7.3, ''Plant Systems Control Room Emergency Outside Air Supply (CREOAS) System,'' and TS Section 5.5, ''Administrative Controls Programs and Manuals.''

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on October 17, 2006 (71 FR 61075), on possible amendments to revise the plant specific TS, to strengthen TS requirements regarding control room envelope (CRE) habitability by changing the action and surveillance requirements associated with the limiting condition for operation operability requirements for the CRE emergency ventilation system. A new TS administrative controls program on CRE habitability is being added, including a model safety evaluation and model no significant hazards consideration determination, using the consolidated line-item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on January 17, 2007 (72 FR 2022). The licensee affirmed the applicability of the model NSHC determination in its application dated February 20, 2009.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change does not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, or configuration of the facility. The proposed change does not alter or prevent the ability of structures, systems, and components (SSCs) to perform their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed change revises the TS for the CRE emergency ventilation system, which is a mitigation system designed to minimize unfiltered air leakage into the CRE and to filter the CRE atmosphere to protect the CRE occupants in the event of accidents previously analyzed. An important part of the CRE emergency ventilation system is the CRE boundary. The CRE emergency ventilation system is not an initiator or precursor to any accident previously evaluated. Therefore, the probability of any accident previously evaluated is not increased. Performing tests to verify the operability of the CRE boundary and implementing a program to assess and maintain CRE habitability ensure that the CRE emergency ventilation system is capable of adequately mitigating radiological consequences to CRE occupants during accident conditions, and that the CRE emergency ventilation system will perform as assumed in the consequence analyses of design basis accidents. Thus, the consequences of any accident previously evaluated are not increased. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident from any Accident Previously Evaluated

The proposed change does not impact the accident analysis. The proposed change does not alter the required mitigation capability of the CRE emergency ventilation system, or its functioning during accident conditions as assumed in the licensing basis analyses of design basis accident radiological consequences to CRE occupants. No new or different accidents result from performing the new surveillance or following the new program. The proposed change does not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or a significant change in the methods governing normal plant operation. The proposed change does not alter any safety analysis assumptions and is consistent with current plant operating practice. Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The proposed change does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The proposed change does not affect safety analysis acceptance criteria. The proposed change will not result in plant operation in a configuration outside the design basis for an unacceptable period of time without compensatory measures. The proposed change does not adversely affect systems that respond to safely shut down the plant and to maintain the plant in a safe shutdown condition. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Bryan A. Snapp, Esquire, Assoc. General Counsel, PPL Services Corporation, 2 North Ninth St., GENTW3, Allentown, PA 18101–1179.

NRC Branch Chief : Mark Kowal.

R.E. Ginna Nuclear Power Plant, LLC, Docket No. 50–244, R.E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: March 23, 2009.

Description of amendment request: The proposed amendment would delete those portions of the Technical Specifications (TSs) superseded by Part 26, Subpart I of Title 10 of the Code of Federal Regulations (10 CFR). This change incorporates NRC approved Revision 0 of Technical Specification Task Force (TSTF) Improved Standard Technical Specification Change Traveler, TSTF–511, ''Eliminate Working Hour Restrictions from TS 5.2.2 to Support Compliance with 10 CFR Part 26.'' The availability of this TS improvement was announced as part of the consolidated line item improvement process (CLIIP) in the **Federal Register** on December 30, 2008 (73 FR 79923).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1: The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change removes technical specification restrictions on working hours for personnel who perform safety related functions. The technical specification

restrictions are superseded by the worker fatigue requirements in 10 CFR Part 26. Removal of the technical specification requirements will be performed concurrently with the implementation of 10 CFR Part 26, Subpart I, requirements. The proposed change does not impact the physical configuration or function of plant structures, systems, or components (SSCs) or the manner in which SSCs are operated, maintained, modified, tested, or inspected. Worker fatigue is not an assumption in the consequence mitigation of any accident previously evaluated.

Therefore, it is concluded that this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2: The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Accident Previously Evaluated

The proposed change removes technical specification restrictions on working hours for personnel who perform safety related functions. The technical specification restrictions are superseded by the worker fatigue requirements in 10 CFR Part 26. Working hours will continue to be controlled in accordance with NRC requirements. The new rule allows for deviations from controls to mitigate or prevent a condition adverse to safety or as necessary to maintain the security of the facility. This ensures that the new rule will not unnecessarily restrict working hours and thereby create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not alter the plant configuration, require new plant equipment to be installed, alter accident analysis assumptions, add any initiators, or effect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3: The Proposed Change Does Not Involve a Significant Reduction in a Margin of Safety

The proposed change removes technical specification restrictions on working hours for personnel who perform safety related functions. The technical specification restrictions are superseded by the worker fatigue requirements in 10 CFR Part 26.

The proposed change does not involve any physical changes to the plant or alter the manner in which plant systems are operated, maintained, modified, tested, or inspected. The proposed change does not alter the manner in which safety limits, limiting safety system settings or limiting conditions or operation are determined. The safety analysis acceptance criteria are not affected by this change. The proposed change will not result in plant operation in a configuration outside the design basis. The proposed change does not adversely affect systems that respond to safely shutdown the plant and to maintain the plant in a safe shutdown condition.

Removal of plant-specific technical specification administrative requirements will not reduce a margin of safety because the requirements in 10 CFR Part 26 are adequate to ensure that worker fatigue is managed.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Carey Fleming, Sr. Counsel—Nuclear Generation, Constellation Group, LLC, 750 East Pratt Street, 17 Floor, Baltimore, MD 21202.

NRC Branch Chief: Mark G. Kowal.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of amendment request: December 29, 2008.

Description of amendment request: The amendment would revise Technical Specification (TS) 3.8.4, ''DC [Direct Current] Sources—Operating,'' and TS 3.8.5, ''DC Sources—Shutdown.'' Specifically, this amendment would revise the battery connection resistance limits in Surveillance Requirement (SR) 3.8.4.2 and SR 3.8.4.5 from 150 micro-ohms (150E–6 ohm) to 69 micro-ohms (69E–6 ohm). TS 3.8.5 is affected by virtue of SR 3.8.5.1 invoking both SR 3.8.4.2 and SR 3.8.4.5 for DC sources that are required to be operable in Modes 5 and 6.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change replaces a battery surveillance limit with a value based on voltage drop calculations for each of the four battery subsystems at Callaway under both normal operating and accident load profiles. The new value is more conservative, as well as being more appropriate, as an acceptance criterion for verifying battery operability pursuant to SR 3.8.4.2 and SR 3.8.4.5, thus providing greater assurance that the batteries can perform their specified safety functions with regard to accident mitigation.

Overall protection system performance will remain within the bounds of the previously performed accident analyses since there are no design changes. All design, material, and construction standards that were applicable prior to this amendment request will be maintained. There will be no changes to any design or operating limits.

The proposed change will not adversely affect accident initiators or precursors, nor adversely alter the design assumptions, conditions, and configuration of the facility or the manner in which the plant is operated and maintained. The proposed change will not alter or prevent the ability of structures, systems, and components (SSCs) from performing their intended functions to mitigate the consequences of an initiating event within the assumed acceptance limits.

The proposed change does not physically alter safety-related systems nor affect the way in which safety-related systems perform their functions.

All accident analysis acceptance criteria will continue to be met with the proposed change. The proposed change will not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of any accident previously evaluated. The applicable radiological dose criteria will continue to be met.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

There are no proposed design changes nor are there any changes in the method by which any safety-related plant structure, system, or component (SSC) performs its specified safety function. The proposed changes will not affect the normal method of plant operation or change any operating parameters. Equipment performance necessary to fulfill safety analysis missions will be unaffected. The proposed change will not alter any assumptions required to meet the safety analysis acceptance criteria.

No new accident scenarios, transient precursors, failure mechanisms, or limiting single failures will be introduced as a result of this amendment. There will be no adverse effect or challenges imposed on any safety-related system as a result of this amendment.

The proposed amendment will not alter the design or performance of the 7300 Process Protection System, Nuclear Instrumentation System, or Solid State Protection System used in the plant protection systems.

The proposed change does not, therefore, create the possibility of a new or different accident from any accident previously evaluated.

3. Does the proposed change does not involve a significant reduction in a margin of safety?

Response: No.

There will be no effect on those plant systems necessary to assure the accomplishment of protection functions. There will be no impact on the overpower limit, departure from nucleate boiling ratio (DNBR) limits, heat flux hot channel factor (F_Q), nuclear enthalpy rise hot channel factor ($F\Delta H$), loss of coolant accident peak cladding temperature (LOCA PCT), peak local power density, or any other margin of safety. The applicable radiological dose consequence acceptance criteria will continue to be met.

The proposed change does not eliminate any surveillances or alter the frequency of surveillances required by the Technical Specifications; however, the acceptance criterion for the specified battery resistance surveillances will be more restrictive. None of the acceptance criteria for any accident analysis will be changed.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: John O'Neill, Esq., Pillsbury Winthrop Shaw Pittman LLP, 2300 N Street, NW., Washington, DC 20037.

NRC Branch Chief: Michael T. Markley.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: March 4, 2009.

Description of amendment request: The proposed amendment consists of changes to the approved fire protection program as described in Wolf Creek Generating Station (WCGS) Updated Safety Analysis Report (USAR). Specifically, a deviation from certain technical requirements of Title 10 of the Code of Federal Regulations (10 CFR), Part 50, Appendix R, Section III.G.2, as documented in Appendix 9.5E of the WCGS USAR, is requested regarding the use of operator manual actions in lieu of meeting circuit separation protection criteria. Table 3–1 of the submittal dated March 4, 2009 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML090771269), identifies the proposed feasible and reliable operator manual actions requested for permanent approval and Table 3–2 of the submittal identifies the proposed feasible operator manual actions requested for approval on an interim basis. The interim operator actions will be eliminated with the implementation of associated design change package.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The design function of structures, systems and components are not impacted by the proposed change. The proposed change involves the performance of operator manual actions to achieve and maintain safe shutdown in the event of a fire outside of the control room and will not initiate an event. The proposed change does not increase the probability of occurrence of a fire or any other accident previously evaluated.

The proposed operator manual actions are feasible and reliable and demonstrate that the plant can be safely shutdown in the event of a fire. No significant consequences result from the performance of the proposed change.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The design function of structures, systems and components are not impacted by the proposed change. The proposed change involves the performance of operator manual actions to achieve and maintain safe shutdown in response to a fire outside of the control room. The operator manual actions do not involve new failure mechanisms or malfunctions that can initiate a new accident.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

For the permanent operator manual actions, adequate time is available to perform the proposed operator manual actions to account for uncertainties in estimates of the time available and in estimates of how long it takes to diagnose and execute the actions. The actions have been verified that they can be performed through demonstration and the actions are proceduralized. The proposed actions are feasible and reliable and demonstrate that the plant can be safely shutdown in the event of a fire.

For the interim operator manual actions adequate time is available to feasibly perform the proposed operator manual actions and a compensatory measure fire watch is provided for the affected area as an added defense in depth fire protection measure.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jay Silberg, Esq., Pillsbury Winthrop Shaw Pittman LLP, 2300 N Street, NW., Washington, DC 20037.

NRC Branch Chief: Michael T. Markley.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: March 6, 2009.

Description of amendment request: The proposed amendment would delete Technical Specification (TS) 5.2.2.d regarding the requirement to develop and implement administrative procedures to limit the working hours of personnel who perform safety-related functions. The requirements of TS 5.2.2 have been superseded by Title 10 of the Code of Federal Regulations (10 CFR) Part 26, Subpart I. The change is consistent with U.S. Nuclear Regulatory Commission (NRC)-approved Revision 0 to Technical Specification Task Force (TSTF) Improved Technical Specification Change Traveler, TSTF–511, ''Eliminate Working Hour Restrictions from TS 5.2.2 to Support Compliance with 10 CFR Part 26.''

The NRC staff issued a ''Notice of Availability of Model Safety Evaluation, Model No Significant Hazards Determination, and Model Application for Licensees That Wish To Adopt TSTF–511, Revision 0, 'Eliminate Working Hour Restrictions From TS 5.2.2 To Support Compliance With 10 CFR Part 26,''' in the **Federal Register** on December 30, 2008 (73 FR 79923). The notice included a model safety evaluation, a model no significant hazards consideration (NSHC) determination, and a model license amendment request, using the consolidated line item improvement process. In its application dated March 6, 2009, the licensee affirmed the applicability of the model NSHC determination, which is presented below.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of NSHC determination is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change removes Technical Specification restrictions on working hours for personnel who perform safety related functions. The Technical Specification restrictions are superseded by the worker fatigue requirements in 10 CFR Part 26. Removal of the Technical Specification requirements will be performed concurrently with the implementation of the 10 CFR Part

26, Subpart I, requirements. The proposed change does not impact the physical configuration or function of plant structures, systems, or components (SSCs) or the manner in which SSCs are operated, maintained, modified, tested, or inspected. Worker fatigue is not an initiator of any accident previously evaluated. Worker fatigue is not an assumption in the consequence mitigation of any accident previously evaluated. Therefore, it is concluded that this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident from Any Accident Previously Evaluated

The proposed change removes Technical Specification restrictions on working hours for personnel who perform safety related functions. The Technical Specification restrictions are superseded by the worker fatigue requirements in 10 CFR Part 26. Working hours will continue to be controlled in accordance with NRC requirements. The new rule allows for deviations from controls to mitigate or prevent a condition adverse to safety or as necessary to maintain the security of the facility. This ensures that the new rule will not unnecessarily restrict working hours and thereby create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change does not alter the plant configuration, require new plant equipment to be installed, alter accident analysis assumptions, add any initiators, or [a]ffect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in a Margin of Safety

The proposed change removes Technical Specification restrictions on working hours for personnel who perform safety related functions. The Technical Specification restrictions are superseded by the worker fatigue requirements in 10 CFR Part 26. The proposed change does not involve any physical changes to plant or alter the manner in which plant systems are operated, maintained, modified, tested, or inspected. The proposed change does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The safety analysis acceptance criteria are not affected by this change. The proposed change will not result in plant operation in a configuration outside the design basis. The proposed change does not adversely affect systems that respond to safely shutdown the plant and to maintain the plant in a safe shutdown condition. Removal of plant-specific Technical Specification administrative requirements will not reduce a margin of safety because the requirements in 10 CFR Part 26 are adequate to ensure that worker fatigue is managed.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the analysis adopted by the licensee and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jay Silberg, Esq., Pillsbury Winthrop Shaw Pittman LLP, 2300 N Street, NW., Washington, DC 20037.

NRC Branch Chief: Michael T. Markley.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov*.

Duke Energy Carolinas, LLC, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: June 23, 2008.

Brief description of amendments: This request modifies the subject Technical Specifications (TSs) and Bases by changing the logic configuration of TS Table 3.3.2–1, ''Engineered Safety Feature Actuation System Instrumentation,'' Function 5.b.(5), ''Turbine Trip and Feedwater Isolation, Feedwater Isolation, Doghouse Water Level—High High.'' The existing one-out-of-one (1/1) logic per train per doghouse is being modified to a two-out-of-three (2/3) logic per train per doghouse. The proposed change will improve the overall reliability of this function and will reduce the potential for spurious actuations.

Date of issuance: April 2, 2009.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 249/243.

Facility Operating License Nos. NPF–35 and NPF–52: Amendments revised the licenses and the technical specifications.

Date of initial notice in **Federal Register:** February 24, 2009 (74 FR 8276).

The Commission's related evaluation, state consultation, and final no significant hazards consideration determination of the amendments are contained in a Safety Evaluation dated April 2, 2009.

No significant hazards consideration comments received: No.

Duke Power Company LLC, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: March 20, 2008.

Brief description of amendments: The proposed amendments would revise the McGuire licensing basis by adopting the Alternative Source Term (AST) radiological analysis methodology as

allowed by 10 CFR 50.67, ''Accident source term,'' for the Loss of Coolant Accident. This amendment request represents full scope implementation of the AST as described in Nuclear Regulatory Commission (NRC) Regulatory Guide 1.183, ''Alternative Radiological Source Terms for Evaluating Design Basis Accidents at Nuclear Power Reactors, Revision 0.'' Selective implementation of AST for the McGuire Fuel Handling Accidents was approved by the NRC on December 22, 2006. There are no changes proposed to the McGuire Technical Specifications within this amendment request. The application of the AST methodology to the Loss of Coolant Accident (LOCA) radiological analysis will allow McGuire to resolve the Control Room envelope degraded boundary condition as discussed in McGuire's response to NRC Generic Letter 2003–01, ''Control Room Habitability,'' dated February 19, 2004.

By separate amendment request dated January 22, 2008, Duke proposed to revise the McGuire Technical Specification (TS) requirements related to control room envelope habitability in TS 3.7.9, ''Control Room Area Ventilation System.'' The proposed changes are consistent with the Industry and NRC-approved Technical Specification Task Force (TSTF) change TSTF–448, Control Room Habitability, Revision 3 and the NRC Consolidated Line Item Improvement Process (CLIIP).

Duke has performed a review of all McGuire License Amendment Requests (LAR) currently under review by the NRC for impacts to this AST LAR. None of these LARs impact any assumptions or results of the LOCA AST radiological analysis.

Date of issuance: March 31, 2009.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: 251 and 231.

Renewed Facility Operating License Nos. NPF–9 and NPF–17: The amendments revised the license.

Public comments requested as to proposed no significant hazards consideration (NSHC): The notice provided an opportunity to submit comments on the Commission's proposed NSHC determination by March 30, 2009. No comments have been received to date. However, the notice also provided an opportunity to request a hearing by April 28, 2009, but indicated that if the Commission make a final NSHC determination, any such hearing would take place after issuance of the amendment.

Date of initial notice in **Federal Register:** February 27, 2009 (74 FR 9009).

The supplements dated May 28, 2008, October 6, 2008, December 17, 2008 and February 12, 2009, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 31, 2009.

No significant hazards consideration comments received: No.

Entergy Gulf States Louisiana, LLC, and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: December 8, 2008.

Brief description of amendment: The amendment added a license condition to allow a one-time extension of surveillance requirements involving the 18-month channel calibration and logic system functional tests for one channel of the reactor water level instrumentation system. The extension is to account for the effects of rescheduling the next refueling outage from early to late 2009.

Date of issuance: April 1, 2009.

Effective date: As of the date of issuance and shall be implemented within 15 days from the date of issuance.

Amendment No.: 162.

Facility Operating License No. NPF–47: The amendment revised the Facility Operating License and Technical Specifications.

Date of initial notice in **Federal Register***:* January 27, 2008 (74 FR 4770).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 1, 2009.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: July 21, 2008.

Brief description of amendment: The amendment deleted the exception to Limiting Condition for Operation (LCO) 3.0.4 to the 30-day allowable outage time of the Startup No. 2 Transformer and corrected a spelling error in Technical Specification (TS) 3.8.1. The NRC approved the adoption of Industry/TS Task Force (TSTF) change TSTF–359, ''Increased Flexibility in Mode Restraints,'' for ANO–1 in TS Amendment 232 dated April 2, 2008 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML080600006). The intent of TSTF–359 was to eliminate exceptions to LCO 3.0.4 within individual specifications and provide requirements within LCO 3.0.4 to control mode changes when TS-required equipment is inoperable. The licensee omitted deleting this LCO 3.0.4 exception in its October 22, 2007 (ADAMS Accession No. ML073030542), amendment request to adopt TSTF–359.

Date of issuance: March 30, 2009.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment No.: 236.

Renewed Facility Operating License No. DPR–51: Amendment revised the Technical Specifications/license.

Date of initial notice in **Federal Register***:* October 21, 2008 (73 FR 62563).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 30, 2009.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: December 16, 2008, as supplemented by letter dated February 19, 2009.

Brief description of amendment: This amendment request would revise the Technical Specifications Section 2.1.2, Safety Limit Minimum Critical Power Ratio (SLMCPR) for two-loop and single-loop operation.

Date of issuance: March 26, 2009.

Effective date: As of the date of issuance, and shall be implemented within 60 days.

Amendment No.: 232.

Facility Operating License No. DPR–35: The amendment revised the License and Technical Specifications.

Date of initial notice in **Federal Register***:* January 23, 2009 (74 FR 4250).

The supplemental letter dated February 19, 2009, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination. The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated March 26, 2009.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Units 1 and 2, Will County, Illinois; Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Date of application for amendment: April 9, 2008, as supplemented by letter dated October 1, 2008.

Brief description of amendment: The amendments revise Technical Specifications (TSs) 5.5.6, Pre-Stressed Concrete Containment Tendon Surveillance Program, and 5.6.8, Tendon Surveillance Report, for consistency with the requirements of Title 10 Code of Federal Regulations (10 CFR) Section 50.55a, Codes and standards, paragraph (g)(4) for components classified as American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code) Class CC, by replacing the reference to the specific ASME Code year for the tendon surveillance program with a requirement to use the applicable ASME Code and addenda as required by 10 CFR 50.55a.

Date of issuance: March 26, 2009.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment Nos.: Braidwood Unit 1–158; Braidwood Unit 2–158; Byron Unit No. 1–163; and Byron Unit No. 2–163.

Facility Operating License Nos. NPF–72, NPF–77, NPF–37, and NPF–66: The amendments revise the TSs and Licenses.

Date of initial notice in **Federal Register***:* July 1, 2008 (73 FR 37504).

The October 1, 2008, supplemental letter provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 26, 2009.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket No. 50–461, Clinton Power Station (CPS), Unit No. 1, DeWitt County, Illinois

Date of application for amendment: September 2, 2008.

Brief description of amendment: The amendment requested to amend the CPS Unit No. 1 Technical Specifications (TS) to relocate the TS surveillance requirement (SR) 3.8.3.6 from the TS to a licensee-controlled document. SR 3.8.3.6 requires the emergency diesel generator fuel oil storage tanks to be drained, sediment removed, and cleaned on a 10-year interval. The request is submitted consistent with the guidance contained in Nuclear Regulatory Commission (NRC)-approved Technical Specifications Task Force Report 2 (TSTF–2).

Date of issuance: April 2, 2009.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 186.

Facility Operating License No. NPF–62: The amendment revised the Technical Specifications and License.

Date of initial notice in **Federal Register***:* November 4, 2008 (73 FR 65687) and January 27, 2009 (74 FR 4771). The notice on January 27, 2009, was inadvertently placed in the **Federal Register** a second time and did not change the NRC staff's initial proposed finding of no significant hazards consideration.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 2, 2009.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, et al., Docket No. 50–412, Beaver Valley Power Station, Unit No. 2 (BVPS–2), Beaver County, Pennsylvania

Date of application for amendment: November 7, 2008.

Brief description of amendment: The amendment modifies the method used to calculate the available net positive suction head (NPSH) for the BVPS–2 recirculation spray (RS) pumps as described in the BVPS–2 Updated Final Safety Analysis Report (UFSAR). The BVPS–2 UFSAR takes credit for containment overpressure by allowing for the difference between containment total pressure and the vapor pressure of the water in the containment sump in the available NPSH calculation.

Date of issuance: March 26, 2009.

Effective date: As of the date of issuance, and shall be implemented within 30 days.

Amendment No.: 167.

Facility Operating License No. NPF–73: The amendment revised the License and the Updated Final Safety Analysis Report.

Date of initial notice in **Federal Register***:* December 16, 2008 (73 FR 76411).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 26, 2009.

No significant hazards consideration comments received: No.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2 (CNP–1 and CNP–2), Berrien County, Michigan

Date of application for amendment: October 21, 2008.

Brief description of amendment: The amendment modifies Technical Specification 5.6.3, ''Radioactive Effluent Release Report,'' by changing the required annual submittal date for the report from ''within 90 days of January 1 of each year'' (*i.e.,* prior to April 1), to ''prior to May 1 of each year.''

Date of issuance: March 30, 2009.

Effective date: As of the date of issuance.

Amendment Nos.: 308 (CNP–1), 290 (CNP–2).

Facility Operating License Nos. DPR–58 and DPR–74: Amendments revised the Renewed Operating Licenses and Technical Specifications.

Date of initial notice in **Federal Register***:* December 16, 2008 (73 FR 76412).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 30, 2009.

No significant hazards consideration comments received: No.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: April 22, 2008, as supplemented by letter dated March 6, 2009.

Brief description of amendment: The amendment modifies the Technical Specification (TS) 2.7, ''Electrical Systems,'' Limiting Condition for Operation (LCO) 2.7(2)j related to the allowed outage time for the Emergency Diesel Generators (EDGs). The change clarifies LCO 2.7(2)j such that a single period of inoperability for one EDG is limited to 7 consecutive days and that the cumulative total time of inoperability for both EDGs during any calendar month cannot exceed 7 days.

Date of issuance: March 27, 2009.

Effective date: As of the date of issuance and shall be implemented within 120 days from the date of issuance.

Amendment No.: 258.

Renewed Facility Operating License No. DPR–40: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register***:* June 17, 2008 (73 FR 34342). The supplemental letter dated March 6, 2009, provided additional information that clarified the application, did not expand the scope of the application as

originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a safety evaluation dated March 27, 2009.

No significant hazards consideration comments received: No.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: April 3, 2008, as supplemented by letters dated June 20, October 1, November 6, and December 16, 2008.

Brief description of amendments: The amendments revised Technical Specification (TS) 3.7.5, ''Auxiliary Feedwater (AFW) System,'' to remove Surveillance Requirement (SR) 3.7.5.6, and revised TS 3.7.6, ''Condensate Storage Tank (CST) and Fire Water Storage Tank (FWST),'' to remove the FWST level requirements, revise the CST level requirements, and revise TS 3.7.6 to be consistent with the NUREG–1431, ''Standard Technical Specifications (STS).'' Specifically, these changes reflect design changes made to the CSTs and are necessary to support the on-line refurbishment of the FWST and replacement of the recirculation piping for the fire water pumps. The design changes to the CSTs are intended to eliminate the reliance on the FWST for additional seismically-qualified feedwater supply and thus, make the existing TS requirements for the FWST unnecessary.

Date of issuance: March 30, 2009.

Effective date: As of its date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: Unit 1–204; Unit 2–205.

Facility Operating License Nos. DPR–80 and DPR–82: The amendments revised the Facility Operating Licenses and Technical Specifications.

Date of initial notice in **Federal Register***:* July 29, 2008 (78 FR 43956). The supplemental letters dated June 20, October 1, November 6, and December 16, 2008, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 30, 2009.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket No. 50–390, Watts Bar Nuclear Plant (WBN), Unit 1, Rhea County, Tennessee

Date of application for amendment: September 18, 2008.

Brief description of amendment: The amendment revised WBN Unit 1 Technical Specification 3.8.7, ''Inverters—Operating.'' The amendment revised the requirement to two inverters for each of the four channels.

Date of issuance: March 24, 2009.

Effective date: As of the date of issuance and shall be implemented within 240 days of issuance.

Amendment No.: 76.

Facility Operating License No. NPF–90: Amendment revises the Technical Specification 3.8.7 and Updated Final Safety Analysis Report.

Date of initial notice in **Federal Register***:* November 4, 2008 (73 FR 65697).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 24, 2009.

No significant hazards consideration comments received: No.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: March 14, 2007, as supplemented by letters dated April 18, May 9, June 15, August 31, September 12 and 20, October 16, November 16, two letters dated December 14, and December 18, 2007; two letters dated January 18, January 31, February 26 and 28, March 14, April 26, May 14, June 19, and July 31, 2008; and January 16 and 29, and February 17 and 27, 2009.

Brief description of amendment: The amendment revised the licensing basis for the Main Steam and Feedwater Isolation System (MSFIS) controls to incorporate field programmable gate array technology. Other related changes requested in the March 14, 2007, application were previously approved in Amendment No. 174, dated August 28, 2007, Amendment No. 175, dated March 3, 2008, Amendment No. 176, dated March 21, 2008, and Amendment No. 177, dated April 3, 2008.

Date of issuance: March 31, 2009.

Effective date: Effective as of date of issuance and shall be implemented before entry into Mode 3 in the restart from Refueling Outage 17.

Amendment No.: 181.

Renewed Facility Operating License No. NPF–42. The amendment revised the Operating License.

Date of initial notice in **Federal Register***:* June 19, 2007 (72 FR 33785). The supplemental letters dated April 18, May 9, June 15, August 31, September 12 and 20, October 16, November 16, two letters dated December 14, and December 18, 2007; two letters dated January 18, January 31, February 26 and 28, March 14, April 26, May 14, June 19, and July 31, 2008; and January 16 and 29, and February 17 and 27, 2009, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 31, 2009.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 10th day of April 2009.

For the Nuclear Regulatory Commission.

Joseph G. Giitter,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E9–8832 Filed 4–20–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0176]

Draft Regulatory Guide: Issuance, Availability

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Issuance and Availability of Draft Regulatory Guide, DG–1214.

FOR FURTHER INFORMATION CONTACT: Dan Frumkin, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–2280, e-mail *Dan.Frumkin@nrc.gov,* or, R. A. Jervey, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: (301) 251–7407, e-mail to *raj@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft guide in the agency's ''Regulatory Guide'' series. This series was developed to describe and make available to the public such information

as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The draft regulatory guide (DG), titled, ''Fire Protection for Nuclear Power Plants,'' is temporarily identified by its task number, DG–1214, which should be mentioned in all related correspondence. DG–1214 is proposed Revision 2 of Regulatory Guide 1.189.

The primary objectives of fire protection programs (FPPs) at U.S. nuclear plants are to minimize both the probability of occurrence and the consequences of fire. To meet these objectives, the FPPs for operating nuclear power plants are designed to provide reasonable assurance, through defense in depth, that a fire will not prevent the necessary safe-shutdown functions from being performed and that radioactive releases to the environment in the event of a fire will be minimized.

The regulatory framework that the NRC has established for nuclear plant FPPs consists of a number of regulations and supporting guidelines, including, but not limited to, Title 10 of the *Code of Federal Regulations,* Part 50, ''Domestic Licensing of Production and Utilization Facilities,'' (10 CFR Part 50), Appendix A, ''General Design Criteria for Nuclear Power Plants,'' General Design Criterion (GDC) 3, ''Fire Protection;'' 10 CFR 50.48, ''Fire Protection;'' Appendix R, ''Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979,'' to 10 CFR Part 50; regulatory guides; generic communications (*e.g.,* generic letters [GLs], regulatory issue summaries [RISs], bulletins, and information notices [INs]); NUREG-series reports, including NUREG–0800, ''Standard Review Plan [SRP] for the Review of Safety Analysis Reports for Nuclear Power Plants;'' and industry standards. Since not all of the fire protection regulations promulgated by the NRC apply to all plants, this guide does not categorize them as regulations. Licensees should refer to their plant-specific licensing bases to determine the applicability of a specific regulation to a specific plant.

The NRC staff developed this guide to provide a comprehensive fire protection guidance document and to identify the scope and depth of fire protection that the staff would consider acceptable for nuclear power plants. The original issue of this guide addressed only plants operating as of January 1, 2001. Revision 1 of the document added guidance for new reactor designs and incorporated the guidance previously included in Branch Technical Position (BTP) SPLB 9.5–1, ''Guidelines for Fire Protection for Nuclear Power Plants (formerly BTP CMEB 9.5–1).'' DG–1214 incorporates guidance related to analysis of safe-shutdown capabilities as found in regulatory position 5.3.

II. Further Information

The NRC staff is soliciting comments on DG–1214. Comments may be accompanied by relevant information or supporting data and should mention DG–1214 in the subject line. Comments submitted in writing or in electronic form will be made available to the public in their entirety through the NRC's Agencywide Documents Access and Management System (ADAMS).

Personal information will not be removed from your comments. You may submit comments by any of the following methods:

1. Mail comments to: Rulemaking, Directives, and Editing Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

2. E-mail comments to: *nrcrep.resource@nrc.gov*.

Requests for technical information about DG–1214 may be directed to the NRC contact, Dan Frumkin at (301) 415–2280 or e-mail to *Dan.Frumkin@nrc.gov.*

Comments would be most helpful if received by May 29, 2009. Comments received after that date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Electronic copies of DG–1214 are available through the NRC's public Web site under Draft Regulatory Guides in the ''Regulatory Guides'' collection of the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/doc-collections/*. Electronic copies are also available in ADAMS (*http://www.nrc.gov/reading-rm/adams.html*), under Accession No. ML090070453.

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR), which is located at 11555 Rockville Pike, Rockville, Maryland. The PDR's mailing address is USNRC PDR, Washington, DC 20555–0001. The PDR can also be reached by telephone at (301) 415–4737 or (800) 397–4205, by fax at (301) 415–3548, and by e-mail to *pdr.resource@nrc.gov.*

Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

Dated at Rockville, Maryland, this 7th day of April 2009.

For the Nuclear Regulatory Commission.

Andrea D. Valentin,

Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. E9–9099 Filed 4–20–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on May 7–9, 2009, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Monday, October 6, 2008 (73 FR 58268–58269).

Thursday, May 7, 2009, Conference Room T–2b3, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:30 a.m.: Proposed Rule on Risk-Informed Changes to Loss-of-Coolant Accident Technical Requirements (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed rule on a voluntary risk-informed alternative to the current requirements of emergency core cooling systems, and related matters.

10:45 a.m.–12:15 p.m.: Proposed Resolution of Generic Safety Issue (GSI)–163, ''Multiple Steam Generator Tube Leakage'' (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed resolution of GSI–163 regarding multiple steam generator tube leakage, and related matters.

1:15 p.m.–2:45 p.m.: Draft Final Regulatory Guide 1.214, ''Response Procedures for Potential or Actual Aircraft Attacks'' (Open/Closed)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the draft final Regulatory Guide 1.214 and related matters. [**Note**:

A portion of this Session may be closed to protect security and safeguards information pursuant to 5 U.S.C. 552b(c)(3).]

3 p.m.–4:30 p.m.: Status and Update Concerning Revisions to the AP1000 Design Control Document (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff on the current status of the activities associated with the revisions to the AP1000 Design Control Document and related matters.

4:45 p.m.–5 p.m.: Subcommittee Report (Open)—The Committee will hear a report by and hold discussions with the Chairman of the Safety Research Program Subcommittee regarding several-seismic related issues that were discussed during the meeting on April 16–17, 2009.

5 p.m.–7 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will discuss proposed ACRS reports on matters discussed during this meeting. [**Note:** A portion of this Session may be closed to protect security and safeguards information pursuant to 5 U.S.C. 552b (c)(3).]

Friday, May 8, 2009, Conference Room T–2b3, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10 a.m.: Preparation for Meeting with the Commission on June 4, 2009 (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the following topics scheduled for the meeting with the Commission on June 4, 2009: Containment Overpressure Credit Issue, Pressurized Thermal Shock Rule, Digital Instrumentation and Control Matters, and Options to Revise NRC Regulations Based on the International Commission on Radiation Protection (ICRP) Recommendations/Progress on Recommendations of the Independent External Review Panel on Materials Licensing Program.

10:15 a.m.–11:15 a.m.: Quality Assessment of Selected Research Projects (Open)—The Committee will hear reports by and hold discussions with the members of the ACRS Panels regarding the quality assessment of the NRC research projects on: NUREG–6964, ''Crack Growth Rates and Metallographic Examinations of Alloy 600 and Alloy 82/182 from Field and Laboratory Materials Testing in PWR Environments,'' and Draft NUREG–xxxx, ''Diversity Strategies for Nuclear Power Plant Instrumentation and Control Systems.''

11:15 a.m.–12 p.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open/Closed)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future ACRS meetings and other matters related to the conduct of the ACRS business.

[**Note:** A portion of this Session may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.]

12 p.m.–12:15 p.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations to comments and recommendations included in recent ACRS reports and letters.

1:15 p.m.–7:00 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will discuss proposed ACRS reports. [**Note:** A portion of this Session may be closed to protect security and safeguards information pursuant to 5 U.S.C. 552b(c)(3).]

Saturday, May 9, 2009, Conference Room T–2b3, Two White Flint North, Rockville, Maryland

8:30 a.m.–12:30 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [**Note:** A portion of this Session may be closed to protect security and safeguards information pursuant to 5 U.S.C. 552b(c)(3).]

12:30 p.m.–1 p.m.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 6, 2008 (73 FR 58268–58269). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting. Persons desiring to make oral statements should notify the Cognizant ACRS staff named below five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Cognizant ACRS staff prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

In accordance with Subsection 10(d) Public Law 92–463, I have determined that it may be necessary to close a portion of this meeting noted above to discuss security and safeguards information pursuant to 5 U.S.C. 552b(c)(3) and organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which constitute a clearly unwarranted invasion of personal privacy pursuant to 5 U.S.C. 552b(c)(2) and (6).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, as well as the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Girija Shukla, Cognizant ACRS staff (301–415–6855), between 7:15 a.m. and 5 p.m. (ET). ACRS meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr.resource@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at http://*www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/ACRS/.*

Video teleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m., (ET), at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing

link. The availability of video teleconferencing services is not guaranteed.

Dated: April 15, 2009.

Annette L. Vietti Cook,

Secretary of the Commission.

[FR Doc. E9–9101 Filed 4–20–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Federal Register Notice

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATES: Weeks of April 20, 27, May 4, 11, 18, 25, 2009.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of April 20, 2009

Thursday, April 23, 2009

2 p.m. Briefing on Radioactive Source Security (Public Meeting) (*Contact:* Kim Lukes, 301–415–6701).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Week of April 27, 2009—Tentative

There are no meetings scheduled for the week of April 27, 2009.

Week of May 4, 2009—Tentative

There are no meetings scheduled for the week of May 4, 2009.

Week of May 11, 2009—Tentative

Thursday, May 14, 2009

9 a.m. Briefing on the Results of the Agency Action Review Meeting (Public Meeting) (*Contact:* Shaun Anderson, 301–415–2039).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Week of May 18, 2009—Tentative

There are no meetings scheduled for the week of May 18, 2009.

Week of May 25, 2009—Tentative

Wednesday, May 27, 2009

9:30 a.m. Briefing on External Safety Culture (Public Meeting) (*Contact:* Stewart Magruder, 301–415–8730).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Wednesday, May 27, 2009:

1:30 p.m. Briefing on Internal Safety Culture (Public Meeting) (*Contact:* June Cai, 301–415–5192).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Thursday, May 28, 2009

9:30 a.m. Briefing on Fire Protection Closure Plan (Public Meeting) (*Contact:* Alex Klein, 301–415–2822).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

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*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415–1292. Contact person for more information: Rochelle Bavol, (301) 415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: www.nrc.gov/about-nrc/policy-making/schedule.html.

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.*, braille, large print), please notify the NRC's Disability Program Coordinator, Rohn Brown, at 301–492–2279, *TDD:* 301–415–2100, or by e-mail at *rohn.brown@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an e-mail to *darlene.wright@nrc.gov.*

Dated: April 16, 2009.

Rochelle C. Bavol,

Office of the Secretary.

[FR Doc. E9–9196 Filed 4–17–09; 4:15 pm]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 28696; 812–13400]

ProShares Trust, et al.; Notice of Application

April 14, 2009.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application to amend a prior order under section 6(c) of the Investment Company Act of 1940 (''Act'') granting an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 24(d) of the Act and rule 22c–1 under the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act.

APPLICANTS: ProShares Trust (''Trust'') and ProShare Advisors LLC (''Adviser'').

SUMMARY OF APPLICATION: Applicants request an order to amend a prior order that permits: (a) Series of an open–end management investment company (''Initial Funds'') to issue shares redeemable in large aggregations only (''Creation Unit Aggregations''); (b) secondary market transactions in the shares to occur at negotiated prices; (c) dealers to sell the shares to purchasers in the secondary market unaccompanied by a prospectus, when prospectus delivery is not required by the Securities Act of 1933 (''Securities Act''); and (d) certain affiliated persons of the Initial Funds to deposit securities into, and receive securities from, the Initial Funds in connection with the purchase and redemption of Creation Unit Aggregations (''Prior Order'').[1] Applicants seek to amend the Prior Order to: (a) Provide greater operational flexibility to the Funds (defined below); (b) expand the category of Funds designed to correspond to the return of an Underlying Index (defined below) (''Matching Funds'') to include Funds that seek to match the performance of an Underlying Index primarily focused on United States equity securities that applies a strategy referred to as 130/30 (''130/30 Funds''); (c) permit Funds that are based on foreign equity securities indices (''Foreign Equity Funds'') to pay redemption proceeds under certain circumstances more than seven days after the tender of a Creation Unit Aggregation for redemption, but in any event within a period not to exceed 14 calendar days; (d) delete a condition related to future relief in the Prior Order and permit applicants to offer additional series using underlying securities indices (collectively, ''Underlying Indices'' or individually, ''Underlying Index'') different than those permitted under the Prior Order; (e) delete the relief granted in the Prior Order from section 24(d) of the Act and revise the applications on which the Prior Order was issued (''Prior Applications'') accordingly; and (f) amend the terms and conditions of the Prior Applications with respect to certain disclosure requirements.

[1] ProShares Trust, et al., Investment Company Act Release Nos. 27323 (May 18, 2006) (notice) and 27394 (June 13, 2006) (order), amended by Investment Company Act Release Nos. 27609 (Dec. 22, 2006) (notice) and 27666 (Jan. 18, 2007) (order) and further amended by Investment Company Act Release Nos. 27975 (Sep. 21, 2007) (notice) and 28014 (Oct. 17, 2007) (order).

FILING DATES: The application was filed on June 29, 2007, and amended on October 3, 2007, April 11, 2008, November 7, 2008, February 5, 2009 and April 14, 2009.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 11, 2009, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. *Applicants:* ProShares Trust and ProShare Advisors LLC, 7501 Wisconsin Avenue, Suite 1000, Bethesda, MD 20814.

FOR FURTHER INFORMATION CONTACT: Laura L. Solomon, Senior Counsel, at (202) 551–6915, or Julia Kim Gilmer, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549–1520 (tel. 202–551–5850).

Applicants' Representations

1. The Trust is an open-end management investment company registered under the Act and organized as a Delaware statutory trust. The Trust offers series that operate pursuant to the Prior Order. The Adviser, which is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''), or an entity controlled by or under common control with the Adviser will serve as investment adviser to each Fund (defined below). The Adviser may enter into subadvisory agreements with additional investment advisers to act as subadviser to the Trust and any Fund. Any subadviser to the Trust or a Fund will be registered under the Advisers Act.

2. Applicants seek to amend the Prior Order to permit the Trust to offer certain new series that are described in greater detail in the application (the ''Additional Funds'') and future series (''Future Funds,'' together with the Additional Funds, the ''New Funds'') that will be offered pursuant to the same terms, provisions and conditions of the Prior Applications and the Prior Order, as further amended or modified by the application (the New Funds and the Initial Funds are the ''Funds'' and the shares that are issued by the Funds are referred to as ''ETS''). Any entity that creates, compiles, sponsors, or maintains an Underlying Index (''Underlying Index Provider'') is not and will not be an affiliated person, as defined in section 2(a)(3) of the Act, or an affiliated person of an affiliated person, of the Trust, a Fund, a promoter, the Adviser, any subadviser to any Fund, or the Funds' distributor.

3. Applicants request relief that would provide greater operational flexibility to Funds by permitting: (a) The Funds to enter into short positions in the component securities comprising the relevant Underlying Index (''Component Securities''); (b) Matching Funds to invest at least 80% rather than 85% of its total assets (exclusive of collateral held for purposes of securities lending) in Component Securities and/or investments that have economic characteristics that are substantially identical to the economic characteristics of Component Securities; (c) Leveraged Funds (defined below) to determine what percentage, if any, of its total assets to invest in Component Securities; and (d) Leveraged Funds and Inverse Funds (defined below) to seek a specified multiple of the performance of an Underlying Index without being limited to multiples of 125%, 150%, or 200%, up to a multiple of 300%. Applicants state this greater operational flexibility will provide the Funds with the ability to pursue more efficient and cost-effective techniques in seeking to achieve their investment objectives.

4. Applicants also seek to amend the terms and conditions of the Prior Applications to provide that all representations and conditions contained in the Prior Applications that require a Fund to disclose particular information in the Fund's prospectus (''Prospectus'') and/or annual report shall be effective with respect to the Fund until the time that the Fund complies with the disclosure requirements adopted by the Commission in Investment Company Act Release No. 28584 (Jan. 13, 2009) (''Summary Prospectus Rule''). Applicants state that such amendment is warranted because the Commission's amendments to Form N–1A with regard to exchange-traded funds as part of the Summary Prospectus Rule reflect the Commission's view with respect to the appropriate types of prospectus and annual report disclosures for an exchange-traded fund.

5. Applicants also seek relief to introduce Matching Funds that will be 130/30 Funds. Applicants state that in general, ''130/30'' strategies: (a) Establish long positions in securities such that total long exposure amounts to approximately 130% of net assets; and (b) simultaneously establish short positions in other securities such that total short exposure amounts to approximately 30% of net assets. Each 130/30 Fund will hold at least 80% of its total assets (exclusive of collateral held for purposes of securities lending) in the Component Securities that are specified for the long positions and could invest up to 20% in such Component Securities, cash equivalents or other securities. The 130/30 Funds would also enter into financial instruments to obtain any remaining 50% long and 30% short positions dictated by its Underlying Index. Similar to existing Funds that seek daily investment results that correspond, before fees and expenses, to a specified multiple of the daily performance of an Underlying Index (''Leveraged Funds'') and seek the inverse performance or a specified multiple of the inverse performance of their Underlying Indices (''Inverse Funds''), the 130/30 Funds will provide full portfolio disclosure so that the intraday value of a 130/30 Fund can accurately be calculated, market participants will be able to understand the principal investment strategies of the 130/30 Funds, and informed trading of 130/30 Funds' shares may occur. The creation and redemption process for the 130/30 Funds will be the same as for the existing Leveraged Funds in that Creation Unit Aggregations of 130/30 Funds will generally be purchased and redeemed for a basket of in-kind securities and cash, or solely cash.

6. Applicants may offer Matching Funds that are also Foreign Equity Funds. Such Funds will invest at least 80% of their total assets in Component Securities and Depositary Receipts representing Component Securities.[2] Applicants may also offer Funds based on Underlying Indices that are debt securities indices (''Debt Funds''). Applicants state that a cash-in-lieu

[2] The term ''Depositary Receipts'' includes Global Depositary Receipts, Euro Depositary Receipts, American Depositary Receipts and New York Shares.

amount will replace any ''to-be-announced'' (''TBA'') transaction that is listed as a deposit security or Portfolio Security (defined below) of a Debt Fund.[3]

7. Applicants state that the Trust will comply with the federal securities laws in accepting a deposit of a portfolio of securities (''Deposit Basket'') and satisfying redemptions with equity or debt securities contained in the redemption list (''Portfolio Securities'') including that the Deposit Basket and Portfolio Securities are sold only in transactions that would be exempt from registration under the Securities Act.[4] Applicants believe that the requested relief continues to meet the necessary exemptive standards.

Applicants' Legal Analysis

1. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Section 22(e) of the Act:

2. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants state that settlement of redemptions for Foreign Equity Funds is contingent not only on the settlement cycle of the United States market, but also on the delivery cycles in local markets for underlying foreign securities held by the Foreign Equity Funds. Applicants state that market delivery cycles for transferring Portfolio Securities to investors redeeming Creation Unit Aggregations, together with local market holiday schedules, will, in certain circumstances, require a delivery process in excess of seven days. Applicants request relief under section 6(c) of the Act from section 22(e) to allow certain Foreign Equity Funds to pay redemption proceeds up to 14 calendar days after the tender of a Creation Unit Aggregation for redemption. Except as disclosed in the relevant Prospectus, and/or statement of additional information (''SAI''), applicants expect that each Foreign Equity Fund will be able to deliver redemption proceeds within seven days.[5]

3. Applicants state that section 22(e) was designed to prevent unreasonable, undisclosed and unforeseen delays in the payment of redemption proceeds. Applicants assert that the requested relief will not lead to the problems that section 22(e) was designed to prevent. Applicants state that the SAI will disclose those local holidays (over the period of at least one year following the date of the SAI), if any, that are expected to prevent the delivery of redemption proceeds in seven calendar days, and the maximum number of days, up to 14 calendar days, needed to deliver the proceeds for each Foreign Equity Fund relying on relief from section 22(e). Applicants are not seeking relief from section 22(e) with respect to Foreign Equity Funds that do not effect creations and redemptions of Creation Unit Aggregations in-kind.

Section 24(d) of the Act:

4. Applicants seek to amend the Prior Order to delete the relief granted from section 24(d) of the Act. Applicants state that the deletion of the exemption from section 24(d) that was granted in the Prior Order is warranted because the adoption of the Summary Prospectus Rule should supplant any need by a Fund to use a product description (''Product Description''). The deletion of the relief granted with respect to section 24(d) of the Act from the Prior Order will also result in the deletion of related discussions in the Prior Applications, revision of the Prior Applications to delete references to Product Descriptions including in the conditions, and the deletion of condition 5 of the Prior Order.

Future Relief:

5. The Prior Order is currently subject to a condition that does not permit relief for Future Funds unless applicants request and receive with respect to such Future Fund, either exemptive relief from the Commission or a no-action letter from the Division of Investment Management of the Commission.

6. The order would amend the Prior Order to delete this condition. Any Future Fund will: (a) be advised by the Adviser, or an entity controlled by or under common control with the Adviser; (b) use Underlying Indices where the Underlying Index Provider is not an affiliated person, as defined in section 2(a)(3) of the Act, or an affiliated person of an affiliated person, of the Trust, a Fund, a promoter, the Adviser, any subadviser to a Fund, or the Funds' distributor; and (c) comply with the terms of the Prior Order, as amended by the present application.

7. Applicants believe that the modification of the future relief available under the Prior Order would be consistent with sections 6(c) and 17(b) of the Act and that granting the requested relief will facilitate the timely creation of Future Funds and the commencement of secondary market trading of such Future Funds by removing the need to seek additional exemptive relief. Applicants submit that the terms and conditions of the Prior Order were and are appropriate for the Initial and Additional Funds and would be appropriate for Future Funds.

Applicants' Conditions:

Applicants agree that any amended order granting the requested relief will be subject to the following conditions:[6]

1. The Prospectus will clearly disclose that, for purposes of the Act, ETS are issued by the Funds and that the acquisition of ETS by investment companies is subject to the restrictions of section 12(d)(1) of the Act, except as permitted by an exemptive order that permits registered investment companies to invest in a Fund beyond the limits in section 12(d)(1), subject to certain terms and conditions, including that the registered investment company enter into an agreement with the Fund regarding the terms of the investment.

2. As long as the Trust operates in reliance on the requested order, the ETS will be listed on a national securities exchange as defined in section 2(a)(26) of the Act.

[3] A TBA transaction is a method of trading mortgage-backed securities where the buyer and seller agree upon general trade parameters such as agency, settlement date, par amount and price. The actual pools delivered generally are determined two days prior to the settlement date. The amount of substituted cash in the case of TBA transactions will be equivalent to the value of the TBA transaction listed as a deposit security or a Portfolio Security.

[4] In accepting the Deposit Basket and satisfying redemptions with Portfolio Securities that are restricted securities eligible for resale pursuant to rule 144A under the Securities Act, the Trust will comply with the conditions of rule 144A, including in satisfying redemptions with such rule 144A eligible restricted Portfolio Securities. The prospectus for a Fund will also state that an authorized participant that is not a ''Qualified Institutional Buyer,'' as defined in rule 144A under the Securities Act, will not be able to receive, as part of a redemption, restricted securities eligible for resale under rule 144A.

[5] Rule 15c6–1 under the Securities Exchange Act of 1934 requires that most securities transactions be settled within three business days of the trade. Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations applicants may have under rule 15c6–1.

[6] All representations and conditions contained in the application and the Prior Applications that require a Fund to disclose particular information in the Fund's Prospectus and/or annual report shall remain effective with respect to the Fund until the time that the Fund complies with the disclosure requirements adopted by the Commission in Investment Company Act Release No. 28584 (Jan. 13, 2009).

3. Neither the Trust nor any Fund will be advertised or marketed as an open-end fund or a mutual fund. The Prospectus will prominently disclose that ETS are not individually redeemable shares and will disclose that the owners of the ETS may acquire those ETS from the Trust and tender those ETS for redemption to the Trust in Creation Unit Aggregations only. Any advertising material that describes the purchase or sale of Creation Unit Aggregations or refers to redeemability will prominently disclose that ETS are not individually redeemable and that owners of ETS may acquire those ETS from the Trust and tender those ETS for redemption to the Trust in Creation Unit Aggregations only.

4. The Web site for the Trust, which will be publicly accessible at no charge, will contain the following information, on a per ETS basis, for each Fund: (a) The prior business day's NAV and the reported closing price, and a calculation of the premium or discount of such price against such NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the daily closing price against the NAV, within appropriate ranges, for each of the four previous calendar quarters (or the life of the Fund, if shorter).

5. The Prospectus and annual report for each Fund will also include: (a) The information listed in condition 4(b), (i) in the case of the Prospectus, for the most recently completed year (and the most recently completed quarter or quarters, as applicable), and (ii) in the case of the annual report, for the immediately preceding five years (or the life of the Fund, if shorter); and (b) the following data, calculated on a per ETS basis for one, five and ten year periods (or life of the Fund, if shorter), (i) the cumulative total return and the average annual total return based on NAV and closing price, and (ii) the cumulative total return of the relevant Underlying Index.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–9056 Filed 4–20–09; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Tuesday, April 21, 2009 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Walter, as duty officer, voted to consider the items listed for the Closed Meeting in closed session, and determined that no earlier notice thereof was possible.

The subject matter of the Closed Meeting scheduled for Tuesday, April 21, 2009 will be:

- Formal order of investigation;
- Institution and settlement of injunctive actions;
- Institution and settlement of administrative proceedings of an enforcement nature;
- Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 551–5400.

Dated: April 16, 2009.

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–9179 Filed 4–17–09; 11:15 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59757; File No. SR–FINRA–2009–006]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving a Proposed Rule Change Relating to a New Limited Representative Registration Category for Investment Banking Professionals

April 13, 2009.

I. Introduction

On February 17, 2009, the Financial Industry Regulatory Authority, Inc. (''FINRA'') (f/k/a National Association of Securities Dealers, Inc. (''NASD'')), filed with the Securities and Exchange Commission (''Commission''), pursuant to Section19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt NASD Rule 1032(i), which defines a new limited registration category for investment banking professionals, and sets forth the registration requirements for principals who supervise investment banking activities. The proposed rule change was published for comment in the **Federal Register** on March 10, 2009.[3] The Commission received six comment letters regarding the proposal.[4] This order approves the proposed rule change.

II. Description of the Proposed Rule Change

Any person associated with a member firm who is engaged in the securities business of the firm must register with FINRA. As part of the registration process, securities professionals must pass a qualification examination to determine competence in each area in which they intend to work. FINRA has developed examinations and administers examinations developed by other self-regulatory organizations that are designed to establish that persons associated with FINRA members have attained specified levels of competence and knowledge.

Pursuant to NASD Rule 1032, a person who functions as a registered representative must pass the General Securities Representative (Series 7) examination or certain equivalent examinations, unless the person's activities are so limited as to qualify him for a limited representative category which has an examination associated with it. The proposed rule, NASD Rule 1032(i), creates a new limited representative category—Limited

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 59484 (March 2, 2009); 74 FR 10317 (''Notice'').

[4] *See* letters from Gregory M. LeNeave, Anderson LeNeave Co., dated March 12, 2009 (''Anderson LeNeave Letter''); Bryan Emerson, Managing Member, Starlight Investments, LLC, dated March 17, 2009 (''Starlight Investments Letter''); Michael B. Ribet, Member of the Board of Directors, Midwest Business Brokers and Intermediaries Association, to Elizabeth M. Murphy, Secretary, Commission, dated March 27, 2009 (''MBBI Letter''); Michael Adhikari, Advisory Board President, Alliance of Merger & Acquisitions Advisors, to Elizabeth M. Murphy, Secretary, Commission, dated March 30, 2009 (''AM&AA Letter''); Brian A. Wendler, President, Institute of Certified Business Counselors, to Elizabeth M. Murphy, Secretary, Commission, dated March 31, 2009 (''ICBC Letter''); and Daniel E. Hall, Chairman, The M&A Source, to Elizabeth M. Murphy, Secretary, Commission, dated March 31, 2009 (''M&A Source Letter'').

Representative-Investment Banking—which will have an examination tailored for associated persons whose activities are limited to investment banking.[5] The proposed rule change also sets forth the registration requirements for principals who supervise investment banking activities.

III. Summary of Comments

The Commission received letters from six commenters in response to the proposed rule change.[6] All of the commenters supported the proposal.[7] The commenters commended FINRA's acknowledgment of the specialized obligations of investment banking professionals. One commenter noted that this new category of limited registration will allow investment banking employees to become better trained in the rules and regulations applicable to the profession.[8]

IV. Discussion and Commission's Findings

After careful consideration of the proposal and the comments submitted, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[9] In particular, the Commission finds that the proposed rule change is consistent with Section 15A(g)(3) of the Act,[10] which requires FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. The Commission believes that the proposal is consistent with the provisions of the Act noted above because it allows FINRA members to more efficiently allocate resources in order to better train their specialized personnel, which should result in improved compliance by principals and the employees they supervise.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (SR–FINRA–2009–006) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–9057 Filed 4–20–09; 8:45 am]

BILLING CODE 8010–01–P

[5] FINRA is in the process of developing an accompanying qualification examination that will provide a more targeted assessment of the job functions performed by the individuals that would fall within the proposed registration category. The examination itself, including the content outline and test specifications, and fees associated with it will be the subject of a separate proposed rule change.

[6] *Supra* note 4.

[7] Four of the six commenters raised the issue of a proposal previously made to the Division of Trading & Markets (the ''Division'') that would create a Federal registration exemption and simplified system of regulation for merger and acquisition intermediaries. *See* AM&AA Letter; ICBC Letter; M&A Source Letter; MBBI Letter. The proposal is not germane to this proposed rule change and is being considered separately by the Division.

[8] *See* Starlight Investments Letter.

[9] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78*o*–3(g)(3).

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59762; File No. SR–FINRA–2009–023]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change To Adopt FINRA Rule 2320 in the Consolidated FINRA Rulebook

April 14, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 31, 2009, the Financial Industry Regulatory Authority, Inc. (''FINRA'') (f/k/a National Association of Securities Dealers, Inc. (''NASD'')) filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to adopt NASD Rule 2820 (Variable Contracts of an Insurance Company) as a FINRA rule in the consolidated FINRA rulebook with minor changes. The proposed rule change would renumber NASD Rule 2820 as FINRA Rule 2320 in the consolidated FINRA rulebook.

The text of the proposed rule change is available on FINRA's Web site at (*http://www.finra.org*), at the principal office of FINRA, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of, and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

As part of the process of developing a new consolidated rulebook (''Consolidated FINRA Rulebook''),[3] FINRA is proposing to adopt NASD Rule 2820 into the Consolidated FINRA Rulebook with minor changes discussed below. The proposed rule change would renumber NASD Rule 2820 as FINRA Rule 2320.

NASD Rule 2820 regulates members in connection with the sale and distribution of variable life insurance and variable annuity contracts (together, ''variable contracts''). It prohibits members from participating in the offer or sale of a variable contract unless certain conditions are met. Members may not participate in the offering or sale of a variable contract on any basis other than at a value to be determined following receipt of payment in accordance with the provisions of the contract, the prospectus and the Investment Company Act. Members must promptly transmit to the issuing insurance company all contract applications and at least the portion of the purchase payment required to be credited to the contract. NASD Rule 2820 also requires selling agreements between principal underwriters of variable contracts and selling broker-dealers. Such agreements must provide that the sales commission will be

[3] The current FINRA rulebook consists of (1) FINRA Rules; (2) NASD Rules; and (3) rules incorporated from NYSE (''Incorporated NYSE Rules'') (together, the NASD Rules and Incorporated NYSE Rules are referred to as the ''Transitional Rulebook''). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE (''Dual Members''). The FINRA Rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, *see* FINRA *Information Notice,* March 12, 2008 (Rulebook Consolidation Process).

returned to the issuer if the contract is tendered for redemption within seven business days after acceptance. In addition, members may not sell variable contracts unless the insurance company promptly honors customer redemption requests in accordance with the contract, its prospectus and the Investment Company Act.

NASD Rule 2820(g) regulates member compensation in connection with the sale and distribution of variable contracts, including both cash and non-cash compensation arrangements. Generally, NASD Rule 2820(g) prohibits associated persons of a member from accepting any compensation from any person other than the member with which the person is associated. The rule contains an exception to allow arrangements where a non-member pays compensation directly to associated persons, provided that the member agrees to the arrangement, and relies on appropriate rules or guidance from the SEC that apply to the specific fact situation of the arrangement, and the relevant associated persons treat the funds as compensation.[4] NASD Rule 2820(g) also prohibits associated persons from accepting securities as compensation, limits the payment or receipt of non-cash compensation (such as gifts, entertainment, training or education meetings and sales contests), and requires certain records to be kept.

The rule's non-cash compensation provision requires a member to keep records of all compensation received by the member or its associated persons from ''offerors'' (generally insurance companies and their affiliates), other than small gifts and entertainment permitted by the rule. Currently, this provision requires the records to include the nature of, and ''if known,'' the value of any non-cash compensation received. FINRA proposes to modify this requirement by deleting the phrase ''if known'' regarding the value of non-cash compensation. The proposed change to Rule 2820 would require members to determine and keep records of the value of non-cash compensation received from offerors in all cases. This change would make the provision more consistent with the non-cash compensation recordkeeping requirements regarding public offerings of securities (FINRA Rule 5110(i)(2)) and direct participation programs (NASD Rule 2810(c)(2)).[5] Members would be permitted to estimate the actual value of non-cash compensation for which a receipt (or similar documentation) assigning a value is not available.

The proposed rule change also would make certain non-substantive, technical changes to the rule to reflect FINRA's corporate name and the new format of the Consolidated FINRA Rulebook.

Over the past several years, variable life insurance products have continued to be of interest to members and the investing public. FINRA has noted the growth in sales and popularity of variable life insurance products, and has published information, including several *Notices,* addressing regulatory concerns regarding these products.[6]

FINRA believes that the provisions of NASD Rule 2820 continue to be an important tool in the effective regulation of variable contracts. Accordingly, for the reasons set forth above, FINRA recommends that NASD Rule 2820 be transferred with minor changes into the Consolidated FINRA Rulebook as FINRA Rule 2320. As noted above, FINRA will announce the implementation date of the proposed rule change in a *Regulatory Notice* to be published no later than 90 days following Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[7] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change will continue to allow FINRA to effectively regulate members in connection with the sale and distribution of variable contracts. The proposed rule change makes minor changes to a rule that has proven effective in meeting statutory mandates.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2009–023 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2009–023. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will

[4] For example, the SEC staff has issued a number of ''no-action'' letters permitting, among other things, associated persons of members to receive compensation for the sale of variable contract products from a licensed corporate insurance agent acting on behalf of one or more insurance companies. *See First of America Brokerage Service, Inc.* (Sept. 28, 1995) (noting that the staff will no longer respond to letters regarding networking agreements between registered broker-dealers, insurance companies, and insurance agencies in connection with the offer and sale of Insurance Securities unless the [sic] present novel or unusual issues); *FIMCO Securities, Inc.* (July 16, 1993); *Traditional Equinet Corporation of New York* (January 8, 1992).

[5] FINRA has proposed to transfer NASD Rule 2810 without material change into the Consolidated FINRA Rulebook as FINRA Rule 2310. *See* SR–FINRA–2009–016.

[6] *See, e.g.,* the following *Notices to Members:* 98–75 (SEC Approves Rule Change Relating to Non-Cash Compensation for Mutual Funds and Variable Products) (Sept. 1998); 99–103 (SEC Approves Rule Change Relating to Sales Charges for Investment Companies and Variable Contracts) (Dec. 1999); 00–44 (NASD Reminds Members of Their Responsibilities Regarding the Sale of Variable Life Insurance) (July 2000).

[7] 15 U.S.C. 78*o*–3(b)(6).

post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–FINRA–2009–023 and should be submitted on or before May 12, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–9058 Filed 4–20–09; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59768; File No. SR–FINRA–2009–004]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval to Proposed Rule Change, as Modified by Amendment No. 1, To Expand the Definition of ''TRACE–Eligible Security''

April 14, 2009.

I. Introduction

On February 11, 2009, the Financial Industry Regulatory Authority, Inc. (''FINRA'') (f/k/a the National Association of Securities Dealers, Inc. (''NASD'')) filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to expand the definition of ''TRACE-eligible security'' in FINRA Rule 6710(a). The proposed rule change was published for comment in the **Federal Register** on March 11, 2009.[3] The Commission received two comments on the proposal.[4] On April 9, 2009, FINRA filed Amendment No. 1 to the proposed rule change, in which FINRA also responded to the comments.[5] The Commission is publishing this notice and order to solicit comments on Amendment No. 1 and to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposed Rule Change

The current definition of ''TRACE-eligible security'' in Rule 6710(a) was adopted in 2002 and has not been amended. FINRA generally believes that this definition is sufficiently broad to require the reporting of, and provide price transparency for, a substantial portion of corporate debt securities that are eligible for public sale. However, FINRA has identified several situations where corporate debt securities that are eligible for public sale in the secondary market are trading without TRACE price transparency. According to FINRA, such securities are in many cases ''exempted securities'' under Section 3 of the Securities Act.[6] For example, debt securities that are issued subject to the jurisdiction and approval of a court of competent jurisdiction in insolvency matters might be eligible for public sale but not TRACE-eligible because they are not registered under the Securities Act.[7] In addition, debt securities issued as part of an issuer exchange offer effected pursuant to Section 3(a)(9) of the Securities Act[8] and those issued by a bank or other financial institutions under Section 3(a)(2) of the Securities Act[9] generally are not subject to TRACE reporting and dissemination for this reason.

Therefore, FINRA has proposed to amend Rule 6710(a), the definition of ''TRACE-eligible security,'' by eliminating the requirement that such securities be ''(1) registered under the Securities Act; or (2) issued pursuant to Section 4(2) of the Securities Act and purchased or sold pursuant to Securities Act Rule 144A.'' This change would expand TRACE eligibility to include additional corporate debt securities that are eligible for public sale, and may have participation by retail investors. Moreover, FINRA notes that its obligation to conduct surveillance in the corporate bond market is not limited to transactions in securities that are registered under the Securities Act, and that its equity trade reporting rules generally apply to any equity securities eligible for public sale and do not consider registration a factor. FINRA believes that expanding TRACE eligibility in this manner ''is vital to its mandate to regulate the market, to promote market integrity and to protect investors.''[10]

FINRA also has proposed to add the phrase ''and, if a 'restricted security' as defined in Securities Act Rule 144(a)(3)'' in place of the deleted language discussed in the preceding paragraph. Thus, if a security were a restricted security, it would be TRACE-eligible if it were sold pursuant to Rule 144A under the Securities Act[11] (assuming it meets the other requirements for TRACE eligibility). The current definition of TRACE-eligible security requires transaction reporting for some but not all of the large market in corporate debt securities that are restricted securities and sold to qualified institutional buyers (''QIBs'')[12] in transactions effected pursuant to Rule 144A. Although a significant number of restricted securities sold in Rule 144A transactions are preceded by an offering that is exempt under Section 4(2) of the Securities Act, the limitation in the current definition excludes other Rule 144A transactions that FINRA believes should be reported. Consequently,

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 59519 (March 5, 2009), 74 FR 10630 (''Notice'').

[4] *See* letter from Beth N. Lowson, The Nelson Law Firm, LLC, to Elizabeth M. Murphy, Secretary, Commission, dated March 31, 2009 (''Nelson Letter''); letter from Sean C. Davy, Managing Director, Securities Industry and Financial Markets Association (''SIFMA''), to Elizabeth M. Murphy, Secretary, Commission, dated March 31, 2009 (''SIFMA Letter'').

[5] *See infra* Section III.

[6] 15 U.S.C. 77c.

[7] According to FINRA, if an insolvent corporation is reorganized under Chapter 11 of the U.S. Bankruptcy Code, new debt securities are often issued. The issuance is subject to the approval of the trustee and the securities are not required to be registered under the Securities Act. *See* 11 U.S.C. 101 *et seq.*

[8] 15 U.S.C. 77c(a)(9). For example, an issuer may exchange an issue of corporate debt securities that are registered under the Securities Act (and subject to both TRACE reporting and dissemination) for new securities that are not registered in reliance upon Section 3(a)(9), which permits such exchanges without registration of the new securities. Although the exchanged security was TRACE-eligible, the new security is not because it is not registered, as required by existing FINRA Rule 6710(a).

[9] 15 U.S.C. 77c(a)(2).

[10] Notice, 74 FR at 10631.

[11] 17 CFR 230.144A.

[12] *See* 17 CFR 230.144A(a)(1) (defining QIB).

FINRA proposed to amend Rule 6710(a) to include as TRACE eligible a restricted security if it is ''sold pursuant to Securities Act Rule 144A.''

III. Summary of Comments and Amendment No. 1

The Commission received two comments on the proposed rule change.[13] One commenter expressed general support for FINRA's efforts to broaden the range of securities that are subject to TRACE reporting and thus to increase price transparency in the corporate bond market generally. In addition, the commenter argued that the TRACE rules should be amended to eliminate from FINRA's dissemination protocols the ''volume caps'' used when disseminating information on transactions above a certain size.[14] FINRA declined to respond to that comment because it is not related to the proposed rule change.

Another commenter argued that FINRA has ''not provided any direction or clarity regarding the operational requirements'' of reporting certain Regulation S [15] transactions that have not been assigned a CUSIP number. The commenter also expressed concerns that firms have not been able to assess the system changes necessary to comply with the proposed rule change, and therefore are unable to comment on what would be an appropriate implementation timeline.[16] In addition, the commenter suggested that FINRA consider implementing a process for obtaining identifier information for securities (such as many Regulation S securities) for which no identifying information has previously been reported under FINRA Rule 6760, and requested that FINRA provide firms a reasonable grace period to report transactions in such securities.[17]

In response, FINRA stated that the proposed rule change does not require members to report bona fide off-shore Regulation S transactions to TRACE. If a security that is the subject of a Regulation S offering were subsequently part of a U.S. transaction that is required to be reported to TRACE, such securities generally would be assigned CUSIPs. FINRA stated, however, that it would provide guidance on reporting obligations if certain TRACE-eligible securities had for some reason not been assigned a CUSIP number. Finally, FINRA stated that it would establish an effective date that will provide firms sufficient time to make any minor operational enhancements needed to report these types of transactions.[18]

FINRA also responded to the commenter's request for a grace period to report transactions in securities offered under Regulation S and other securities that a member finds are not in the TRACE system at the time the member is required to report a transaction. FINRA responded that members that are a party to a transaction in a TRACE-eligible security are required to report the transaction, and if the CUSIP for a TRACE-eligible security is not in the TRACE system, a member must notify FINRA Operations promptly, provide the CUSIP and other identifying information, and thereafter report the member's transaction. FINRA stated that it takes into account a delay in reporting that may occur if a member, upon trying to report a transaction, determines that the member first must notify FINRA Operations and provide the CUSIP and other identifying information for the security to be added to TRACE. Rather than supporting the proposed grace period, FINRA advises members to maintain a record of any notifications the member provides to FINRA Operations, which FINRA would view as a mitigating factor in reviewing the transaction report(s) in such security of members providing notification. FINRA further suggested that, where there has been prompt notification and reporting of a security as soon as possible after the security is included in TRACE, FINRA generally would not include such trades in any regulatory inquiry directed to the firm and that, generally, it would be unlikely for such late trades to form the factual basis for formal or informal action, absent other regulatory concerns or violations.[19]

Also in Amendment No. 1, FINRA deleted certain language from its Form 19b–4 wherein it discussed the purpose of the proposed rule change.[20] These revisions are non-substantive and do not affect the proposed rule text.

IV. Discussion

After carefully considering the proposal and the comments submitted, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[21] In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,[22] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The Commission does not believe that the comments raise any issue that would preclude approval of the proposal.

The Commission believes that it is reasonable and consistent with the Act for FINRA to broaden the definition of ''TRACE-eligible security'' in the manner set forth in the proposal. The larger universe of transactions in corporate debt securities that are subject to TRACE reporting should result in greater transparency for market participants and the public. Including in the audit trail additional corporate debt securities that are eligible for public sale (and that otherwise meet the standards for TRACE eligibility) should enhance FINRA's surveillance efforts, as FINRA's obligation to conduct surveillance in the corporate bond market is not limited to transactions in securities that are registered under the Securities Act.

In addition, the Commission believes that amending the definition of ''TRACE-eligible security'' in Rule 6710(a) to include all restricted securities sold pursuant to Rule 144A, rather than only those preceded by an offering exempt pursuant to Securities Act Section 4(2), is a reasonable expansion of TRACE reporting. The additional transaction data will allow FINRA to obtain a more complete audit trail of transactions in corporate debt securities.

The Commission finds good cause for approving the proposed rule change, as modified by Amendment No. 1 thereto, before the thirtieth day after the date of publication of notice of filing of Amendment No. 1 in the **Federal Register**. Amendment No. 1 makes only minor non-substantive changes to the proposal, which otherwise was subject to a full comment period. Therefore, the Commission finds good cause, consistent with Section 19(b)(2) of the Act, to approve the proposal, as modified by Amendment No. 1, on an accelerated basis.

[13] *See supra* note 4.

[14] *See* Nelson Letter at 1.

[15] 17 CFR 230.901–905.

[16] *See* SIFMA Letter at 1.

[17] *See id.* at 2.

[18] *See* Amendment No. 1 at 4.

[19] FINRA noted, however, that providing notification to FINRA Operations would not be viewed as a mitigating factor or circumstance during any review of late trade reports, if FINRA determines that the member was obligated under Rule 6760 to provide notice to FINRA Operations at or prior to the initial issuance of the TRACE-eligible security. *See* Amendment No. 1 at 4.

[20] *See id.* at 5.

[21] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[22] 15 U.S.C. 78o–3(b)(6).

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1, including whether Amendment No. 1 is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–FINRA–2009–004 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2009–004. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2009–004 and should be submitted on or before May 12, 2009.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[23] that the proposed rule change (File No. SR–FINRA–2009–004), as modified by Amendment No. 1 thereto, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant delegated authority.[24]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–9059 Filed 4–20–09; 8:45 am]

BILLING CODE 8010–01–P

[23] 15 U.S.C. 78s(b)(2).

[24] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2009–0025]

Future Systems Technology Advisory Panel Meeting

AGENCY: Social Security Administration (SSA).

ACTION: Notice of third panel meeting.

DATES: May 12, 2009, 9:15 a.m.–5 p.m. and May 13, 2009, 8:30 a.m.–12 p.m.

Location: The Westin Alexandria.

ADDRESSES: 400 Courthouse Square, Alexandria, VA 22314.

SUPPLEMENTARY INFORMATION:

Type of Meeting: The meeting is open to the public.

Purpose: The Panel, under the Federal Advisory Committee Act of 1972, as amended, (hereinafter referred to as ''the FACA'') shall report to and provide the Commissioner of Social Security independent advice and recommendations on the future of systems technology and electronic services at the agency five to ten years into the future. The Panel will recommend a road map to aid SSA in determining what future systems technologies may be developed to assist in carrying out its statutory mission. Advice and recommendations can relate to SSA's systems in the area of Internet application, customer service, or any other arena that would improve SSA's ability to serve the American people.

Agenda: The Panel will meet on Tuesday, May 12, 2009 from 9:15 a.m. until 5 p.m. and Wednesday, May 13, 2009 from 8:30 a.m. to 12 p.m. The agenda will be available on the Internet at *http://www.ssa.gov/fstap/index.htm* or available by e-mail or fax on request, one week prior to the starting date.

During the third meeting, the Panel will have outside experts address items of interest and other relevant topics to the Panel. This additional information will further the Panel's deliberations and the effort of the Panel subcommittees.

Public comments will be heard on Tuesday, May 12, 2009, from 4:30 p.m. until 5 p.m. Individuals interested in providing comments in person should contact the Panel staff as outlined below to schedule a time slot. Members of the public must schedule a time slot in order to comment. In the event public comments do not take the entire scheduled time period, the Panel may use that time to deliberate or conduct other Panel business. Each individual providing public comment will be acknowledged by the Chair in the order in which they are scheduled to testify and is limited to a maximum five-minute, verbal presentation. In addition to or in lieu of public comments provided in person, individuals may provide written comments to the panel for their review and consideration. Comments in written or oral form are for informational purposes only for the Panel. Public comments will not be specifically addressed or receive a written response by the Panel.

Contact Information: Records are kept of all proceedings and will be available for public inspection by appointment at the Panel office. Anyone requiring information regarding the Panel should contact the staff by:

Mail addressed to SSA, Future Systems Technology Advisory Panel, Room 800, Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–0001; Telephone at 410–965–6011; Fax at 410–965–0201; or E-mail to *FSTAP@ssa.gov.*

Dated: April 15, 2009.

Dianne L. Rose,

Designated Federal Officer, Future Systems Technology Advisory Panel.

[FR Doc. E9–9149 Filed 4–20–09; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2009 0037

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel *Island Flyer.*

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under

certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2009–0037 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before May 21, 2009.

ADDRESSES: Comments should refer to docket number MARAD–2009–0037. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel *Island Flyer* is:

Intended Use: ''Fully crewed charters.''

Geographic Region: ''Florida.''

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: April 14, 2009.

By Order of the Maritime Administrator.

Leonard Sutter,

Secretary, Maritime Administration.

[FR Doc. E9–9144 Filed 4–20–09; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on December 23, 2008, vol. 73. no. 247, pages 78866–78867. This information collection is required for compliance with the final rule that codifies special flight rules and airspace and flight restrictions for certain operations in the Washington, DC Metropolitan Area.

DATES: Please submit comments by May 21, 2009.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Washington, DC Metropolitan Area Special Flight Rules.

Type of Request: Extension without change of a currently approved collection.

OMB Control Number: 2120–0706.

Form(s): There are no FAA forms associated with this collection.

Affected Public: A total of 17,097 Respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden per Response: Approximately 2.9 hours per response.

Estimated Annual Burden Hours: An estimated 49,223 hours annually.

Abstract: This information collection is required for compliance with the final rule that codifies special flight rules and airspace and flight restrictions for certain operations in the Washington, DC Metropolitan Area.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on April 14, 2009.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E9–9045 Filed 4–20–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Office of Commercial Space Transportation; Notice of Availability and Request for Comment on the Environmental Assessment (EA) for the Jacksonville Aviation Authority (JAA) Launch Site Operator License at Cecil Field, Florida (FL)

AGENCY: Federal Aviation Administration (FAA), Department of Transportation.

ACTION: Notice of availability, notice of public meeting, and request for comment.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended ((NEPA) 42 U.S.C. 4321 *et seq.*), Council on Environmental Quality NEPA implementing regulations (40 CFR Parts 1500–1508), and FAA Order 1050.1E, Change 1, the FAA is announcing the availability of and requesting comments on the EA for the Jacksonville Aviation Authority (JAA) Launch Site Operator License at Cecil Field, FL.

The EA was prepared in response to an application for a Launch Site Operator License from the JAA. Under the Proposed Action, the FAA would issue a Launch Site Operator License to JAA to operate a facility for horizontal launches and landings of suborbital manned reusable launch vehicles (RLVs). These vehicles, when operated out of Cecil Field, could carry space flight participants, scientific experiments, or payloads. The proposed launch site is located within the city limits of the City of Jacksonville, FL in Duval County, approximately 15 miles southwest of downtown Jacksonville. The EA addresses the potential environmental impacts of issuing a Launch Site Operator License for the Proposed Action and the No Action Alternative.

The FAA has posted the EA on the FAA/AST Web site at *http://ast.faa.gov.* In addition, CDs of the EA were sent to persons and agencies on the distribution list (found in Chapter 7 of the EA). A paper copy and a CD version of the EA may be reviewed for comment during regular business hours at the following locations:

Jacksonville Public Library—Argyle Branch, 7973 Old Middleburg Road South, Jacksonville, FL 32222.

Jacksonville Public Library—Webb Wesconnett Regional, 6887 103rd Street, Jacksonville, FL 32210.

Jacksonville Public Library—West Regional, 1425 Chaffee Road South, Jacksonville, FL 32221.

Jacksonville Public Library—Main Branch, 303 N Laura St., Jacksonville, FL 32202.

Green Cove Springs Library, 403 Ferris St., Green Cove Springs, FL 32043.

DATES: The public comment period for the Draft EA begins with the publication of this NOA. To ensure that all comments can be addressed in the Final EA, comments on the draft must be received by the FAA no later than May 20, 2009.

The FAA is holding a public hearing on the Draft EA. The public hearing will be held on May 14, 2009 from 6 to 9 p.m. at the Cecil Commerce Center, 13561 Lake Newman St., Jacksonville, FL. Meeting registration and a general poster session will occur from 6 to 6:30 p.m. The FAA will present information about the Draft EA and licensing process at 6:30 p.m. followed by a public comment period in which members of the public will be provided the opportunity to provide both written and oral comments on the Draft EA. A court reporter will transcribe the oral comments.

ADDRESSES: Comments regarding the EA should be mailed to FAA Cecil Field EA, c/o ICF International, 9300 Lee Highway, Fairfax, VA, 22031. Comments can also be sent by e-mail to *CecilField@icfi.com* or fax to (703) 934–3951.

ADDITIONAL INFORMATION: Under the Proposed Action, the FAA would issue a Launch Site Operator License to JAA that would allow them to operate Cecil Field for horizontal suborbital RLV launches. JAA has identified two types of horizontally launched RLVs, Concept X and Concept Z, which are considered typical vehicles that would be launched from Cecil Field. The RLVs would launch and land on Runway 18L–36R, the primary north-south runway at Cecil Field. Both proposed RLVs would take-off from Cecil Field under jet power. Rocket operations would occur in a designated offshore area, approximately 60 miles east of the Florida coast. The RLVs would return to Cecil Field as maneuverable gliders.

JAA proposes to use Cecil Field's existing infrastructure, such as hangars, control tower, and runways for commercial space launch operations. Therefore, JAA does not anticipate new construction activities at Cecil Field related to the proposed spaceport.

The activities analyzed under the Proposed Action that would support, either directly or indirectly, licensed launches include:

- Transporting the vehicle, vehicle components, and propellants to Cecil Field via road, rail, air, or a combination of these methods.
- Assembling the various vehicle components.
- Conducting checkout activities.
- Loading the propellants into the launch vehicle.
- Loading the pilot, passengers, and other payload.
- Towing or moving the launch vehicle to the proper launch or takeoff location.
- Departing Cecil Field as an aircraft.
- Igniting the rocket engines once the vehicle has reached a designated area over the Atlantic Ocean.
- Collecting any debris from the runway prior to vehicle landing.
- Recovering and transporting the launch vehicle from the runway after landing.

The only alternative to the Proposed Action analyzed in the EA is the No Action Alternative. Under this alternative, the FAA would not issue a Launch Site Operator License to JAA, and there would be no commercial space launches from Cecil Field. The site would continue to be available for existing general aviation and training-related activities.

Resource areas were considered to provide a context for understanding and assessing the potential environmental effects of the Proposed Action, with attention focused on key issues. The resource areas considered included climate and air quality; coastal resources; compatible land use; Department of Transportation Act: Section 4(f) resources; farmlands; fish, wildlife, and plants; floodplains; hazardous materials, pollution prevention, and solid waste; historical, architectural, archaeological, and cultural resources; light emissions and visual resources; natural resources, energy supply, and sustainable design; noise; socioeconomics; water quality; wetlands; wild and scenic rivers; children's environmental health and safety risks; environmental justice; construction impacts; secondary (induced) impacts; airports/airport users; airspace; transportation; and cumulative impacts.

FOR FURTHER INFORMATION CONTACT: Stacey M. Zee (AST–100), Office of Commercial Space Transportation, 800 Independence Avenue, SW., Room 331, Washington, DC 20591, telephone (202) 267–9305; E-mail *stacey.zee@faa.gov.*

Issued in Washington, DC on: April 15, 2009.

Michael McElligott,

Manager, Space Systems Development Division.

[FR Doc. E9–9142 Filed 4–20–09; 8:45 am]

BILLING CODE 4310–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance from certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being

requested, and the petitioner's arguments in favor of relief.

Georgetown Loop Railroad

[Waiver Petition Docket Number FRA–2008–0107]

The Georgetown Loop Railroad (GLR), a narrow-gage tourist railroad, petitioned FRA for a waiver of compliance from certain provisions of the steam locomotive safety standards, as prescribed by 49 CFR Section 230.112 (Wheels and tires) and Section 230.113 (Wheels and tire defects) for one steam locomotive used in tourist/excursion service. Specifically, this waiver request applies to Locomotive Number GLR 12.

Locomotive Number GLR 12 was built in 1927 by Baldwin Locomotive Works (BLW), Philadelphia, PA, for the Kahului Railroad in Hawaii, and is a 36-inch narrow gage. The locomotive was used on a shortline in freight and passenger service until its retirement in the 1950s. It was subsequently sold to private individuals and moved to California to be used on various tourist/excursion trains. In the 1980s, a new boiler was installed and extensive repairs were made to the running gear. It was used frequently throughout the 1990s at the Silver Wood Amusement Park until its sale to the Colorado Historical Society in 2005, and was in service on GLR from 2005–2007.

By letter notification on April 7, 2008, FRA brought GLR under the agency's jurisdiction and the boiler is now compliant with the applicable requirements of 49 CFR Part 230. During an inspection of the entire locomotive, it was determined that the inside gage (back-to-back spacing) exceeds the safety limits set by FRA under 49 CFR Section 230.112(b). The actual measurements for the locomotive are 33½ inches wide. The allowable range under the regulation is 32½ to 32⅞ inches wide. The locomotive was built to BLW's narrow-gage standards, which allow wider back-to-back dimensions and narrower flange widths for narrow-gage engines. These alternate standard dimensions were primarily used in areas with prevalent sharp curves and poor track conditions. In addition to the wider back-to-back dimension used by Baldwin, a narrow flange width (new) that measures 1⅛ inches is used versus the 1¼-inch flange, which is the standard AAR narrow flange.

A second issue with GLR Number 12 pertains to the requirements of 49 CFR Section 230.113(g) regarding the minimum thickness of the tire's flange. The regulatory requirement for condemning a flange for insufficient width is 15/16 of an inch based upon a new thickness of 1¼ inches. Since the new flange thickness on GLR Number 12's flanges was 1⅛ inches, GLR requests that the condemning limit for this locomotive be 13/16 of an inch based upon the reduced initial width. GLR stated that they have safely operated this locomotive for several years without any wheel problems prior to coming under FRA's jurisdiction. GLR believes that there is no practical way to modify the chassis components to comply with the regulatory requirements as the basic design of the locomotive's brake and spring rigging and driving boxes will not allow the driving tires and wheels to be significantly modified.

In summary, GLR requests relief from the regulatory requirements of 49 CFR Sections 230.112 and 230.113 to allow GLR Number 12 to be maintained to BLW standards for narrow-gage locomotives, as stated above.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–2008–0107) and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Issued in Washington, DC on April 15, 2009.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E9–9140 Filed 4–20–09; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance from certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Association of American Railroads (Docket Number FRA–2009–0004)

The Association of American Railroads (AAR), on behalf of itself and its member railroads, seeks a waiver of compliance from certain provisions of the *Railroad Locomotive Safety Standards,* 49 CFR Part 229. Specifically, AAR requests to change the time interval requirements of 49 CFR 229.27 *Annual Tests* and 49 CFR 229.29 *Biennial Tests* for all locomotives equipped with 26–L type brake systems, without air dryers, by extending the testing interval to 4 years.

On May 12, 2005, AAR petitioned for an industry-wide waiver of annual and biennial testing requirements for locomotives equipped with both the 26–L brake systems and air dryers. This request was based on the test data gathered by the Canadian railroads and waivers which were previously granted to both the Canadian National and the Canadian Pacific Railroads. On December 2, 2005, FRA granted a conditional waiver to extend the time limits of the required tests to 4 years. AAR believes it is now time to grant a

waiver extending the time requirements to 4 years for annual and biennial testing on locomotives that are not equipped with air dryers.

AAR proposes two alternatives for FRA to consider. The first is to expand the current waiver, Docket Number FRA 2005–21325 for locomotives equipped with air dryers to include locomotives not equipped with air dryers. The other option is a distinct test program for locomotives not equipped with air dryers. AAR is amenable to a test program with the following features:

• On locomotives approaching 3 years since the prior annual and biennial tests were performed, a full air test would be run with the valves untouched. On locomotives that pass the air tests, the valves would be marked with either a tag or stencil identifying them as part of the test waiver. The FRA blue card would annotate to reflect that the unit is operating under the test waiver. Any valve replaced during the test period would be sent to Wabtec Corporation for analysis. The railroads would keep track of all brake failures occurring during the test period.

• 6 months into the waiver period, one locomotive operating under the waiver will be selected from the test group of each participating railroad. Eligible locomotives would be locomotives that have not had any air brake valves replaced for a 3½ year time period. These valve sets will be removed from the locomotives and sent to Wabtec for a joint tear-down inspection with FRA and members of the AAR Brake Systems and Locomotive Committees.

• 1 year into the test period, one locomotive will be selected from the test group of each participating railroad. Eligible locomotives would be those that had not had any brake valve replacements for 4 years. These valve sets will be removed and sent to Wabtec for another joint tear-down inspection.

• If it is determined by the tear-down inspections that the lack of an air-dryer has no effect on the performance of the air brake system, FRA would then expand waiver Docket Number FRA–2005–21325 to include locomotives without air dryers.

AAR does not believe any safety hazard will be created, and looks forward to working with FRA on a waiver test program which will demonstrate that an extended time interval between tests will not adversely affect safety on locomotives not equipped with air dryers.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.,* Waiver Petition Docket Number FRA–2009–0004) and may be submitted by any of the following methods:

• *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.

• *Fax:* 202–493–2251.

• *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.

• *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Issued in Washington, DC on April 15, 2009.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E9–9139 Filed 4–20–09; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Release of Waybill Data

The Surface Transportation Board has received a request from Sidley Austin Brown LLP on behalf of Canadian Pacific Railway Company (WB471–11—April 9, 2009) for permission to use certain data from the Board's Carload Waybill Samples. A copy of the request may be obtained from the Office of Economics, Environmental Analysis, and Administration.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics, Environmental Analysis, and Administration within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

Contact: Scott Decker, (202) 245–0330.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. E9–9090 Filed 4–20–09; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2009 0043]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel SAVANNAH.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2009–0043 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations

at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before May 21, 2009.

ADDRESSES: Comments should refer to docket number MARAD–2009–0043. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel SAVANNAH is:

Intended Use: ''nature cruises.''

Geographic Region: ''Rockport, Texas, and Port Aransas, Texas and Offshore Texas''

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: April 16, 2009.

By Order of the Maritime Administrator.

Leonard Sutter,

Secretary, Maritime Administration.

[FR Doc. E9–9129 Filed 4–20–09; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2009 0040]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel DEANZA III.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2009–0040 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before May 21, 2009.

ADDRESSES: Comments should refer to docket number MARAD–2009–0040. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel DEANZA III is:

Intended Use: ''Charter for less than 12 passengers.''

Geographic Region: ''Washington.''

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: April 14, 2009.

By Order of the Maritime Administrator.

Leonard Sutter,

Secretary, Maritime Administration.

[FR Doc. E9–9134 Filed 4–20–09; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2009 0042]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel HASTY HEART.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by

MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2009–0042 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before May 21, 2009.

ADDRESSES: Comments should refer to docket number MARAD–2009–0042. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel HASTY HEART is:

Intended Use: ''Sailing charter.''

Geographic Region: ''California, Hawaii''.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: April 16, 2009.

By Order of the Maritime Administrator.

Leonard Sutter,

Secretary, Maritime Administration.

[FR Doc. E9–9128 Filed 4–20–09; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2009 0041]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel WILD GOOSE II.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2009–0041 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before May 21, 2009.

ADDRESSES: Comments should refer to docket number MARAD–2009–0041. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel WILD GOOSE II is:

Intended Use: ''Limited part time charter on the Great Lakes and it's tributaries providing sight seeing tours and cruises.''

Geographic Region: ''Michigan, Ohio, Pennsylvania, New York, Wisconsin, Indiana, Illinois, and Minnesota''.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: April 14, 2009.

By Order of the Maritime Administrator.

Leonard Sutter,

Secretary, Maritime Administration.

[FR Doc. E9–9127 Filed 4–20–09; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2009 0039]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel NAUTI CAT.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2009–0039 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before May 21, 2009.

ADDRESSES: Comments should refer to docket number MARAD–2009–0039. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel NAUTI CAT is:

Intended Use: ''week long passenger charters in Florida keys for guests on vacation to experience the cruising lifestyle by living aboard vessel.''

Geographic Region: ''Florida''.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: April 14, 2009.

By Order of the Maritime Administrator.

Leonard Sutter,

Secretary, Maritime Administration.

[FR Doc. E9–9146 Filed 4–20–09; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2009 0036]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel ESCAPADES.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2009–0036 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before May 21, 2009.

ADDRESSES: Comments should refer to docket number MARAD–2009–0036. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION:

As described by the applicant the intended service of the vessel ESCAPADES is:

Intended Use: ''Charter fishing (6 pac), whale watching, harbor tours.''

Geographic Region: ''Massachusetts''.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: April 14, 2009.

By Order of the Maritime Administrator.

Leonard Sutter,

Secretary, Maritime Administration.

[FR Doc. E9–9126 Filed 4–20–09; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 15, 2009.

The Department of Treasury will submit the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, and 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before May 21, 2009 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1428.

Type of Review: Extension.

Form: 8023.

Title: Elections Under Section 338 for Corporations Making Qualified Stock Purchases.

Description: Form 8023 is used by corporations that acquire the stock of another corporation to elect to treat the purchase of stock as a purchase of the other corporation's assets. The IRS uses Form 8023 to determine if the purchasing corporation reports the sale of its assets on its income tax return and to determine if the purchasing corporation has properly made the election.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 2,559 hours.

OMB Number: 1545–1191.

Type of Review: Extension.

Title: INTL–868–89 (Final) Information with Respect to Certain Foreign-Owned Corporations.

Description: The regulations require record maintenance, annual information filing, and the authorization of the U.S. Corporation to act as an agent for IRS summons purposes. These requirements allow IRS International examiners to better audit the returns of U.S. corporations engaged in crossborder transactions with a related party.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 630,000 hours.

Clearance Officer: R. Joseph Durbala, (202) 622–3634, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Shagufta Ahmed, (202) 395–7873, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Celina Elphage,

Treasury PRA Clearance Officer.

[FR Doc. E9–9061 Filed 4–20–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designation of Entities Pursuant to Executive Order 13382

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the names of 11 newly designated entities whose property and interests in property are blocked pursuant to Executive Order 13382 of June 28, 2005, ''Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters.''

DATES: The designation by the Director of OFAC of the 11 entities identified in this notice pursuant to Executive Order 13382 is effective on March 3, 2009.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, *tel.:* (202) 622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treas.gov/offices/enforcement/ofac*) or via facsimile through a 24-hour fax on demand service, *tel.:* (202) 622–0077.

Background

On June 28, 2005, the President, invoking the authority, *inter alia,* of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (''IEEPA''), issued Executive Order 13382 (70 FR 38567, July 1, 2005) (the ''Order''), effective at 12:01 a.m. eastern daylight time on June 29, 2005. In the Order, the President took additional steps with respect to the national emergency described and declared in Executive Order 12938 of November 14, 1994, regarding the proliferation of weapons of mass destruction and the means of delivering them.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, or that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, of: (1) The persons listed in an Annex to the Order; (2) any foreign person determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Attorney General, and other relevant agencies, to have engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer or use such items, by any person or foreign country of proliferation concern; (3) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to have provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, any activity or transaction described in clause (2) above or any person whose property and interests in property are blocked pursuant to the Order; and (4) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to the Order.

On March 3, 2009, the Director of OFAC, in consultation with the Departments of State, Justice, and other relevant agencies, designated 11 entities whose property and interests in property are blocked pursuant to Executive Order 13382.

The list of additional designees is as follows:

1. BANK MELLI IRAN INVESTMENT COMPANY (a.k.a. BMIIC), Rafiee Alley, Nader Alley, 2 After Serahi Shahid

Beheshti, Vali E Asr Avenue, Tehran, Iran; No. 2, Nader Alley, Vali-Asr Str., P.O. Box 3898–15875, Tehran, Iran; Bldg. 2, Nader Alley after Beheshi Forked Road, P.O. Box 15875–3898, Tehran 15116, Iran; Business Registration Document #89584 (Iran) [NPWMD].

2. BANK MELLI PRINTING AND PUBLISHING CO. (a.k.a. BANK MELLI PRINTING CO), Km 16 Karaj Special Road, Tehran, Iran; 18th Km Karaj Special Road, P.O. Box 37515–183, Tehran, Iran; Business Registration Document #382231 (Iran) [NPWMD].

3. BMIIC INTERNATIONAL GENERAL TRADING LTD. (a.k.a. BMIIC TRADING UAE; a.k.a. BMIIGT; a.k.a. ''BMIICGT''), P.O. Box 11567, Dubai, United Arab Emirates; Deira, P.O. Box 181878, Dubai, United Arab Emirates [NPWMD].

4. CEMENT INVESTMENT AND DEVELOPMENT COMPANY (a.k.a. CIDCO; a.k.a. CIDCO CEMENT HOLDING), No. 241, Mirdamad Street, Tehran, Iran [NPWMD].

5. FIRST PERSIAN EQUITY FUND (a.k.a. FIRST PERSIA EQUITY FUND; a.k.a. FPEF), Rafi Alley, Vali Asr Avenue, Nader Alley, P.O. Box 15875–3898, Tehran 15116, Iran; Walker House, 87 Mary Street, George Town, Grand Cayman KY1–9002, Cayman Islands; Clifton House, 75 Fort Street, P.O. Box 190, Grand Cayman KY1–1104, Cayman Islands [NPWMD].

6. MAZANDARAN CEMENT COMPANY, Africa Street, Sattari Street No. 40, P.O. Box 121, Tehran 19688, Iran; 40 Satari Ave., Afrigha Highway, P.O. Box 19688, Tehran, Iran [NPWMD].

7. MAZANDARAN TEXTILE COMPANY (a.k.a. SHERKATE NASAJI MAZANDARAN), Kendovan Alley 5, Vila Street, Enghelab Ave., P.O. Box 11365–9513, Tehran 11318, Iran; 28 Candovan Cooy Enghelab Ave., P.O. Box 11318, Tehran, Iran; Sari Ave., Ghaemshahr, Iran [NPWMD].

8. MEHR CAYMAN LTD., Walker House, 87 Mary Street, George Town, Grand Cayman KY1–9002, Cayman Islands [NPWMD].

9. MELLI AGROCHEMICAL COMPANY PJS (a.k.a. SHERKAT MELLI SHIMI KESHAVARZ), Mola Sadra Street, 215 Khordad, Sadr Alley No. 13, Vanak Sq., P.O. Box 15875–1734, Tehran, Iran [NPWMD].

10. MELLI INVESTMENT HOLDING INTERNATIONAL (a.k.a. MEHR), 514, Business Avenue Building, Deira, P.O. Box 181878, Dubai, United Arab Emirates; Registration Certificate Number (Dubai) 0107 issued 30 Nov 2005 [NPWMD].

11. SHOMAL CEMENT COMPANY, Dr. Beheshti Ave., No. 289, Tehran 151446, Iran; 289 Shahid Beheshti Ave., P.O. Box 15146, Tehran, Iran [NPWMD].

Dated: March 3, 2009.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. E9–9055 Filed 4–20–09; 8:45 am]

BILLING CODE 4811–45–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Proposed Collection; Comment Request for Electronic License Application Form

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Office of Foreign Assets Control (''OFAC'') within the Department of the Treasury is soliciting comments concerning OFAC's Electronic License Application Form TD–F 90–22.54.

DATES: Written comments should be received on or before June 22, 2009, to be assured of consideration.

ADDRESSES: Direct all written comments to ''Paperwork Reduction Act'' care of the Policy Division, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Annex—4th Floor, Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Requests for additional information about the filings or procedures should be directed to the Assistant Director for Policy, tel.: 202/622–4855, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Annex—4th Floor, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Title: OFAC Application for the Release of Blocked Funds.

Agency Form Number: TD–F 90–22.54.

OMB Number: 1505–0170.

Abstract: Transactions prohibited pursuant to the Trading With the Enemy Act, 50 U.S.C. App. 1–44, the International Emergency Economic Powers Act, 50 U.S.C. 1701 *et seq.,* and similar authorities may be authorized by means of specific licenses issued by the Office of Foreign Assets Control (''OFAC''). Such licenses are issued in response to applications submitted by persons or institutions whose property or interests in property have been blocked or who wish to engage in transactions that would otherwise be prohibited. Form TD–F 90–22.54, which provides a standardized method of application for all applicants seeking the unblocking of funds transfers, is available in electronic format on OFAC's Web site. Use of the form greatly facilitates and speeds these applicants' submissions and OFAC's processing of such applications while simultaneously obviating the need for applicants to write lengthy letters to OFAC, thus reducing the overall burden of the application process. Since February 2000, use of the form to apply for the unblocking of funds transfers has been mandatory pursuant to a revision in OFAC's regulations at 31 CFR 501.801. *See* 65 FR 10708, February 29, 2000.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals/businesses and other for-profit institutions/banking institutions.

Estimated Number of Respondents: 3,000.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 1,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid Office of Management and Budget (''OMB'') control number. Books or records relating to a collection of information must be retained for five years.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the

burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 13, 2009.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. E9–9062 Filed 4–20–09; 8:45 am]

BILLING CODE 4811–45–P

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FEDERAL REGISTER PAGES AND DATE, APRIL

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

142.....17910

15 CFR

801.....15843
902.....15373
Proposed Rules:
801.....16337
922.....18169

16 CFR

Proposed Rules:
318.....17914
429.....18170

17 CFR

40.....17392
41.....17392
145.....17392
211.....17769
232.....15666, 17595
239.....15666
249.....15666
Proposed Rules:
242.....18042
248.....17925

18 CFR

38.....15374
284.....18127
Proposed Rules:
38.....16160

20 CFR

403.....16326
429.....16326
655.....17597

21 CFR

5.....14720
520.....17770
1300.....15596
1301.....15596
1304.....15596
1306.....15596
Proposed Rules:
589.....16160

22 CFR

62.....15844
215.....14931

24 CFR

30.....14725

26 CFR

1.....14931
Proposed Rules:
1.....16161, 17119

29 CFR

403.....18132
408.....18132
4022.....17395
Proposed Rules:
403.....18172
408.....18172

30 CFR

Proposed Rules:
935.....17802
946.....17806

31 CFR

50.....18135
543.....16763
544.....16771

33 CFR

117 .....14725, 14726, 14932, 15218, 16781, 16782, 16783, 17082, 17396
165 .....14726, 14729, 15845, 15854, 17084, 17397, 17601, 17902, 17905
Proposed Rules:
101.....16161, 17444
104.....16161, 17444
105.....16161, 17444
106.....16161, 17444
110.....14938
117.....16814
165 .....15404, 15407, 15409, 15412, 15414, 15417, 15899, 16814, 17625, 17627, 17926, 17928, 17931

37 CFR

Proposed Rules:
370.....15901

38 CFR

21.....17907

39 CFR

20.....14932
111 .....15376, 15380, 16124, 17399
3001.....16734
3020.....15384
3030.....16734
3031.....16734
Proposed Rules:
111.....15226, 17128

40 CFR

35.....17403
52 .....14731, 14734, 15219, 15856, 15864, 17086, 17771, 17781, 17783, 18138, 18141, 18148
70.....17086
112.....14736
180 .....14738, 14743, 14744, 15865, 15869, 15876, 15880, 17405
228.....17406
261.....17414, 17419
271.....17423, 17785
300.....16126
707.....16327
Proposed Rules:
51.....14941
52 .....14759, 17129, 17810, 18177
55.....17934
59.....14941
63.....17130
70.....17129
86.....16448
87.....16448
89.....16448
90.....16448
94.....16448
98.....16448
300.....16162
600.....16448
1033.....16448
1039.....16448
1042.....16448
1045.....16448
1048.....16448
1051.....16448
1054.....16448
1065.....16448

41 CFR

300-3.....16327
301-2.....16327
301-11 .....16327, 16329, 17436
301-70.....16327

42 CFR

440.....15221

43 CFR

2.....17090

44 CFR

Ch. 1 15328
64.....17094, 18149
65 .....16783, 18152, 18154
67.....16785
Proposed Rules:
206.....15228

45 CFR

Proposed Rules:
302.....17445
303.....17445
307.....17445
612.....16815

46 CFR

390.....17097

47 CFR

1.....16794
300.....16795
Proposed Rules:
Chapter III.....17938
36.....15236
73.....17811

48 CFR

2.....17793
22.....17793
52.....17793
528.....17089
552.....17089
Proposed Rules:
2.....16823
19.....16823
52.....16823

49 CFR

23.....15222
26.....15222
171.....16135
173.....16135
176.....16135
178.....16135
180.....16135
192.....17090
195.....17090
232.....15387
373.....15388
Proposed Rules:
26.....15904, 15910

50 CFR

17 .....15070, 15123, 17288
21.....15394
622.....17102, 17603
635.....15669
648 .....14933, 17030, 17102, 17106, 17107, 17907
679 .....15887, 16144, 16145, 17111, 17112, 17113, 18156, 18160
Proposed Rules:
17.....16169
20.....16339
218.....15419
226.....17131
300.....17630, 18178
622.....15911, 17812
648.....14760, 17135
665.....15685
679 .....14950, 15420, 17137

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

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H.R. 146/P.L. 111–11
Omnibus Public Land Management Act of 2009 (Mar. 30, 2009; 123 Stat. 991)

H.R. 1512/P.L. 111–12
Federal Aviation Administration Extension Act of 2009 (Mar. 30, 2009; 123 Stat. 1457)

Last List March 23, 2009

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